MEDICARE AND MEDICAID FRAUDS

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HEARING

BEFORE THE

SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE

IN COOPERATION WITH THE

SUBCOMMITTEE ON HEALTH

AND THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

WAYS AND MEANS COMMITTEE
U.S. HOUSE OF REPRESENTATIVES

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MEDICARE AND MEDICAID FRAUDS

TUESDAY, MARCH 8, 1977

U. S. SENATE SPECIAL COMMITTEE ON AGING,
IN COOPERATION WITH THE SUBCOMMITTEE ON HEALTH
AND THE SUBCOMMITTEE ON OVERSIGHT
OF THE HOUSE WAYS AND MEANS COMMITTEE,
Washington, D.C.

MORNING SESSION

The committees met, pursuant to notice, at 10 a.m., in room 1202, Dirksen Senate Office Building, Hon. Frank Church, chairman, Senate Special Committee on Aging, presiding.

Present from the Special Committee on Aging: Senators Church, Domenici, and Percy. Present from the Subcommittee on Health: Congressmen Rostenkowski (chairman), Vanik, Ford, Crane, and Martin. Present from the Subcommittee on Oversight: Congressmen Gibbons (chairman), Pickle, Rangel, Jones, Gephardt, Ford, Crane, and Martin.

Also present: From the Special Committee on Aging: William E. Oriol, staff director; David A. Affeldt, chief counsel; Val J. Halamandaris, associate counsel; John Guy Miller, minority staff director; Margaret S. Fayé and David A. Rust, minority professional staff members; Patricia G. Oriol, chief clerk; Alison Case, assistant chief clerk; and Eugene R. Cummings, printing assistant. From the Subcommittee on Health; Paul C. Rettig, staff director; John Salmon, counsel; Mary Nell Lehnhard and Erwin Hytner, professional staff members; and Harvey Pies, assistant minority counsel. From the Subcommittee on Oversight; Larry J. Ross, counsel; and Carl Smith and Julian Granger, professional staff members.

OPENING STATEMENT BY SENATOR FRANK CHURCH, PRESIDING

Senator CHURCH. The hearing will please come to order.

I am pleased to welcome you here this morning for this hearing by the Senate Special Committee on Aging and the subcommittees of the House Ways and Means Committee. We are here to examine issues related to the fiscal integrity of home health programs authorized under medicare, medicaid, and title XX of the Social Security Act.

Title XX, of course, is a direct grant program to the States with 75 percent Federal funding to help them provide social services for the indigent and the handicapped. Combined Federal and State spending under title XX reached $3.4 billion last year. Approximately 10 percent of these funds or $340 million went for homemaker/chore services nationwide. The Federal commitment to home health programs under medicare and medicaid has been increasing. Last year medicare paid $245 million for home health services. In fiscal year 1978 this amount will grow to $563 million.

Medicaid's commitment has increased from $24 million in 1972 to $73 million in 1976. We firmly believe that the Federal support of home health services should continue to increase. We know that home services can help maintain senior citizens in independence and postpone or perhaps prevent even more expensive institutionalization.

While we have great hopes for the potential of home health care in meeting the needs of older Americans, we have been receiving increasingly reports of fraud and abuse in these programs. It appears that some organizations that are dedicated to personal profit rather than public good have begun to enter the field of home health care. We hear rumblings particularly from those States which permit proprietary home health agencies to provide services to the poor and elderly.

Part of the purpose of these hearings is to establish to what extent profiteers are taking over the home health field and what, if anything, HEW has done to stem the tide. We want to learn about the quality of services offered by profit-sharing agencies and their costs as well as how they compare with nonprofit agencies which provide the same services. We want to learn what we might do to prevent fraud and abuse in our home health program.

Unless we do take such action and unless we insist as well on high quality of care, supported all or in part by Federal dollars, how can we hope to launch a national health program for all age groups? It is high time that we make medicare do the job Congress meant it to do. It is high time we make medicaid work or replace it with something that will.

I am pleased to have sitting with me here today Representatives Dan Rostenkowski who is chairman of the Health Subcommittee in the House of Representatives and Sam Gibbons who is chairman of the Oversight Subcommittee and Charles Rangel who is here. Jim Jones and Jim Martin have come in since I started reading the initial statement and my old friend Charles Vanik.

Representative MARTIN. I heard the good point, Senator.

Senator CHURCH. I really welcome all of you gentlemen to this joint hearing.

We have been cooperating in investigating the particular issues that will be developed in the course of the next 2 days and we certainly are pleased and grateful to the Members of the House of Representatives for the help that they have extended in making this hearing possible.

Now before we proceed to the witnesses, if there are any Members of the House or of the Senate present who would like to make some opening remarks, the Chair will recognize them for that purpose.

Representative ROSTENKOWSKI. Mr. Chairman.

Senator CHURCH. Mr. Rostenkowski.

STATEMENT BY REPRESENTATIVE DAN ROSTENKOWSKI

Representative Rostenkowski. Mr. Chairman, I am pleased to join with you here today in this hearing. Yesterday my Subcommittee on Health concluded its hearings on H.R. 3, the medicare-medicaid fraud and antiabuse amendments which I have sponsored with Chairman Paul Rogers of the Interstate and Foreign Commerce Committee of the House.

The testimony we received in these hearings was among the most troubling that I have ever heard in my my career in the House. I think that all of us are now convinced that the problem of fraud and abuse in our Federal health program is indeed a massive one. I believe it will take extraordinary efforts on the part of the Congress and this administration to finally come to grips with the problem.

Today, as in our hearings in the House, we want to learn what might be done to help prevent fraud and abuse in the existing Government health programs and as we proceed to explore the myriad of problems in the administration of these problems it becomes increasingly clear that we must improve the management of medicare and medicaid before we move forward to the consideration of national health insurance. I believe these hearings are an indication of the extraordinary sense of commitment which exists on both sides of the Capitol on this issue.

We are pleased to work with you, Senator Church, and with other Members of the Senate in order to bring about permanent solutions to this nagging problem. I would be particularly interested to learn in these hearings what measures the Social Security Administration and its Bureau of Health Insurance have taken to protect the integrity of the medicare program.

While I am mindful of the fact that to date most of the disclosures that we have received related to the State administered medicaid program, I want to know if medicare is also troubled with some of the same type of problems. I am also interested in the performance of our fiscal intermediaries and to what extent they help eliminate fraud and abuse in the programs they in fact administer. Although our focus here today is necessarily a narrow one, it is troubling to me to realize the depth of the problem in this relatively small part of the medicare program.

Home health is an area that so many in the Congress have viewed with so much promise. It has been viewed by many as the more humanitarian and more cost efficient form of health care delivery for our senior citizens. I hope that these hearings will not only disclose what has gone wrong with the rapid expansion of this benefit but also what we can do in the way of administrative reform to set home health back on the right track.

Thank you, Mr. Chairman.

Senator Church. Thank you very much, Mr. Rostenkowski.

Would other Members like to comment?

Mr. Gibbons.

STATEMENT BY REPRESENTATIVE SAM M. GIBBONS

Representative Gibbons. I will make a very brief statement and I would like to put my formal statement in the record at this point, Mr. Chairman.

Senator CHURCH. Very well.

Representative GIBBONS. Mr. Chairman, Oversight works in wondrous ways. The Secretary of HEW is announcing today a reorganization of all of the agencies that we are looking into. I don't know that we can claim credit for that but certainly it is timely.

I want to pay tribute to you, Senator Church, and to Mr. Rostenkowski and Mr. Vanik, former chairman of the Subcommittee on Oversight, for having worked together. It has been a pleasure to see the prime staff work that has gone on and the cooperation. I look forward to a very productive hearing today.

[The prepared statement of Representative Gibbons follows:]

PREPARED STATEMENT OF REPRESENTATIVE SAM M. GIBBONS

Chairman Church and members of the Senate Special Committee on Aging, as chairman of the Oversight Subcommittee of the House Ways and Means Committee, I welcome the opportunity to participate in these hearings. One of our oversight responsibilities is to insure that the medicare program is run well—fairly, efficiently, and economically. To meet that responsibility, we must know how it has been run and is being run. These hearings, I believe, will help us in that regard, and I appreciate your invitation, Mr. Chairman, to take part.

Some of the testimony, I understand, will bring out certain weaknesses that have occurred in the administration, supervision, and operation of the home health care aspects of medicare. We are here today to identify those weaknesses and to discover ways to overcome them.

As we all know, the costs of the medicare program have risen phenomenally in recent years. What we need to know is why. Is it because the numbers of medicare recipients have increased? Is it because the costs of sophisticated medical services have gone up? Or is it because of other reasons—reasons that have to do with the way the system is set up, how it is administered by the Government and by those who provide and supervise the delivery of services and determine the costs of those services?

I understand that these hearings today and tomorrow will focus on this latter question. It is a question of great interest to the Oversight Subcommittee and, I am sure, to the Health Subcommittee of Ways and Means. As the testimony unfolds, it may become a question of interest to the Department of Justice. And I would hope, Mr. Chairman, that if there is any indication of fraud or criminality, by whomever, the record will be forwarded to the Attorney General for further investigation and prosecution, if warranted.

In any event, if the record shows abuse of the program, then I will want answers to these two questions: Why did such abuses go on for so long without being detected or pursued? And what are we going to do to make sure they don't happen again?

Thank you, Mr. Chairman and members of the special committee.

Senator CHURCH. Thank you very much, Mr. Gibbons.

Representative MARTIN. Mr. Chairman.

Senator CHURCH. Yes, Mr. Martin.

STATEMENT BY REPRESENTATIVE JAMES G. MARTIN

Representative MARTIN. Mr. Chairman, I want to make a brief statement as well.

I want to say that I am pleased that the attention of these two subcommittees has focused on the area of home health care. Home health services have been regarded as a means of enabling patients to obtain the medical care that they need at lower cost, and often with greater satisfaction, than if those patients were institutionalized away from home. Unfortunately, as is true with many Federal programs that rapidly expand with the infusion of Federal dollars, inefficiencies

and abuses apparently have threatened to weaken this well intentioned program.

It is extremely important to discover what the major problem areas are and how they can be remedied; to prevent coverage of home health care services from causing the medicare program to be more, rather than less, costly to the program beneficiaries and our Nation's taxpayers. However, I also think it is appropriate, as we attempt to ferret out the reasons for any abuses or inefficient administration of the program, to question whether in general such problems may stem inevitably from expanding the workload of our Federal agencies with programs that tend to mushroom, in terms of costs and complexity, far beyond the capacity of those agencies to administer with the resources allocated to them.

Mr. Chairman, I would like to welcome our witnesses this morning and to thank them for their cooperation and assistance. I am certain their testimony will be enlightening and most helpful to us.

Senator CHURCH. Thank you very, very much, Mr. Martin, for your statement.

I would like to turn for a moment to the Senate side and welcome the new ranking Republican member of the Senate Committee on Aging, Senator Domenici. I know he has some remarks he would like to make and a statement he would like to include in the record.

Pete, we are very pleased that you are on the committee. This is the first hearing I think that you have been able to attend as ranking minority member.

STATEMENT BY SENATOR PETE V. DOMENICI

Senator DOMENICI. Mr. Chairman, I would like my written statement to be made part of the record and I will just make two observations.

Senator CHURCH. Very well.

Senator DOMENICI. In the Senate, when we were debating reorganization, the Senate Committee on Aging amendment went to the floor and there was a serious argument as to whether or not we ought to have this committee. Mr. Chairman, I commend you. The first meeting that we are having after the reorganization bodes well for the future, in my opinion. We told the U.S. Senate that this committee was going to work closely with other committees in the Senate that had legislative jurisdiction to see to it that what we found in our diligent effort and pursuit of helping our senior citizens actually became a reality through changes in our laws and through discovering better ways to do the things we have been doing in the past. I think if we stay on this course we obviously will meet that commitment.

It is a tremendous start to have House Members here who have an active role to play in improving the delivery of health care. I am sure, Mr. Chairman, that we will do this more often and that we will work closely with our authorized committees in the Senate.

On a substantive vein I join in the remarks of Congressman Rostenkowski. I believe he has hit the nail right on the head. We have two jobs. One is to find out what is going wrong with the systems we have developed. Obviously if we cannot improve on them we are not going to get very far with any system. When he says that our goal has

to be to have a better management system, I think he is absolutely right.

It is deplorable that such a system as home health care, which we all thought was really going to turn the corner in terms of deinstitutionalizing our health delivery system is now before us in these hearings as wrought with fraud. I hope it does not mean that we can conclude that this approach is not a good approach, but rather that we have to find better ways of managing and delivering home health care and the other systems that we have wrought in this Congress that are delivering services to the senior citizens.

So I hope we discover what is wrong. Those who have violated the law will be penalized eventually, but, in the long run, we learn from experience and move toward a better managed delivery system at every level.

[The prepared statement of Senator Domenici follows:]

PREPARED STATEMENT OF SENATOR PETE DOMENICI

Mr. Chairman, it is a pleasure to be here this morning to participate in this joint hearing with the House Ways and Means Committee which will focus attention on the potentially serious problem of fraud and abuse in the delivery of home health care services. I would like to note, for the record, that this is the first hearing undertaken by the Special Committee on Aging since it was restructured pursuant to the committee reorganization plan adopted as Senate Resolution 4. As the newly selected ranking Republican on this committee I would like to reaffirm our strong and long standing support for efforts to expose and eliminate fraud and abuse in the medicare and medicaid programs.

I can assure all of you here today that I intend to do everything in my power to end this type of corruption and abuse—just as I did as a member of the former Long-Term Care Subcommittee which began this series of investigations under the leadership of Senator Moss. Over the past several years, we have brought light to bear on the scandalous conditions that exist in some of our nursing homes; we have uncovered kickbacks and other illegal practices in many clinical laboratories, and we have exposed the low level of services and the incredible conditions that exist in the so-called medicaid mills. Today, we are turning our attention to allegations of fraud and abuse in the delivery of home health care and home care services.

I would like to stress several points which highlight, in my mind, the importance of these hearings and our ongoing investigation into the operation of medicare and medicaid:

First, as a member of the Temporary Select Committee To Study The Senate Committee System which recommended the recently instituted reform of the Senate's committee structure contained in Senate Resolution 4, I realize the importance of having nonlegislative committees—such as the Special Committee on Aging—work closely with the appropriate standing committees. Such cooperation can convert our investigative work into meaningful legislation where needed. I am therefore pleased that today's hearing is a joint venture with the House Ways and Means Committee, and I hope it will be the first of many joint hearings which will coordinate the work of our committee with that of the various legislative committees.

Second, as a member of the Senate Budget Committee I wrestle almost daily with the incredibly complex forces which work to shape our Federal budget. The Third Concurrent Budget Resolution, which we passed last Thursday, amends the congressional budget for fiscal year 1977 to accommodate the President's economic stimulation package. As it now stands, the fiscal year 1977 budget will run $69.75 billion in the red. This kind of massive deficit, sustained over a prolonged period, will rekindle the fires of inflation and derail our economic recovery. We all know that the burden of inflation falls most heavily upon older Americans who are living on fixed income. If we are not very careful, we will find that we are giving older persons medical, social, and nutritional benefits with one hand and taking them away—through inflation—with the other. Mr. Chairman, we simply cannot afford to tolerate fraud, abuse, or misuse in any Federal program because it deprives our needy citizens of much needed services and it wastes our taxpayers money.

Third, our investigation today and tomorrow differs in one very significant way from our earlier probes. Federal funding for the delivery of health care and supportive services in the home is a relatively new idea. Thus the amount of money involved is still fairly small when compared with institutional care. It is, however, an area in which we can expect rapid growth over the next few years as we seek alternatives to the unnecessary or premature institutionalization of the elderly. If we can correct the defects in this concept now, we can hopefully "nip in the bud" the potential for future fraud and abuse.

Mr. Chairman, I want this committee to be aggressive in its efforts to wipe out corruption in the medicare-medicaid programs. You and our staff of investigators can be assured of my full and continuing support for this worthy undertaking.

I thank you, Mr. Chairman.

Senator CHURCH. Thank you, Senator Domenici. You have made a fine contribution. We are happy to have you aboard.

Now are there other members that would like to make opening statements at this time?

Representative VANIK. Mr. Chairman.

Senator CHURCH. Mr. Vanik.

STATEMENT BY REPRESENTATIVE CHARLES A. VANIK

Representative VANIK. I just would like to say that we have been involved in this for quite a long time. I hope that what we develop here might develop some possible amendments to H.R. 3 that might be very usefully incorporated before we get into markup. I feel that the timeliness of this hearing makes it possible for us to provide some legislative change in some areas probably as quickly as the next several weeks.

I thank the chairman.

Senator CHURCH. I want to join in the expression of the hope that we in these hearings will lead to further strengthening of the bill that is now pending in the House. That bill is well intended and it moves a step or two in the direction of better enforcement but I think it falls far short of the need and I believe these hearings will help

to demonstrate that we must find new avenues that are not even contemplated in that legislation if we are to deal effectively with this problem.

Now two other Members of the House have come in since I had an opportunity to introduce the others, Mr. Ford and Mr. Gephardt. I want to welcome both of them to the committee.

Is there any further statement that anyone would wish to make at this time?

Senator PERCY. Mr. Chairman.

Senator CHURCH. Senator Percy.

STATEMENT BY SENATOR CHARLES H. PERCY

Senator PERCY. I would just simply like to say, inasmuch as this meeting is a joint meeting with the distinguished Members of the House, we have followed with great interest and learned from their work. I would like to pay tribute to Ted Moss for this is the first time he is not with us. I served as ranking Republican with him for 5 years when he conducted a series of hearings that included some 28 hearings on long-term care across the country. Many types of fraud and abuses were brought out and people that were discovered by this particular subcommittee are now serving jail sentences. I think we should simply make public note of the tremendous contribution that Senator Moss made to this field.

I welcome very much indeed these hearings and a chance to work with our colleagues and learn from our colleagues in the House what they have discovered in this field. I think the time has really come for action. We have had enough hearings. We ought to be able to wrap this up and come to a conclusion. We have certainly helped a great deal by strengthening regulation at both the State and Federal level. We have not put an end to the abuses by a long shot but I trust that these hearings will help us.

We need to focus attention and then definitively make a decision on how to prevent abuses in these programs. Certainly, we can't develop a comprehensive national health insurance until we can administer these programs which are much smaller in scope.

I thank the Chair very much indeed.

I thank our distinguished colleagues in the House for joining us today over here.

Senator CHURCH. I think that what you have said, Senator Percy, about the role that Senator Moss played can't be over-emphasized. It was as a result of the hard work that he did in the past 2 years in which he was joined, I might say, by you as the ranking minority member of the subcommittee that opened up for the first time the serious problems that we now know we face in the whole medicare-medicaid front. These hearings today go beyond the previous hearings in that they focus on home health care and title XX of the Social Security Act and so represent a new dimension heretofore unprobed in the course of earlier hearings.

Congressman Crane and Congressman Pickle have just come in and the Chair wants to welcome them here.

If there is any problem with Members running out of room on that side, there is additional space on this side.

Senator PERCY. We welcome you on the minority side over here.

Representative PICKLE. I will tell the next fellow. [Laughter.]

Senator CHURCH. Our first witness this morning is Mr. John Markin, the GAO auditor who was assigned to this case by the House Ways and Means Committee.

John Markin, if you would step forward.

All witnesses testifying in this hearing will be asked to take the oath. Would you please raise your hand.

Do you solemnly swear that all of the testimony that you will give in this proceeding will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. MARKIN. Yes, I do.

Senator CHURCH. Thank you.

Mr. Val Halamandaris, our counsel, will commence the questioning and if there is no objection I will follow the practice of having counsel question the witnesses for the purpose of getting all of the known facts on the record but members are invited at any time to intervene with questions of their own whenever a certain point needs further clarification or further emphasis.

Mr. Halamandaris, if you will please commence the questioning.

Mr. HALAMANDARIS. Thank you.

Mr. Markin, I would like you to tell the members of the committees how you came to review home health costs, how you came to review this specific case, and then if you would, continue with your prepared statement after which we can ask some pertinent questions.

STATEMENT OF JOHN MARKIN, STAFF, HOUSE WAYS AND MEANS OVERSIGHT SUBCOMMITTEE

Mr. MARKIN. All right.

I am assigned temporarily to the House Ways and Means Oversight Subcommittee and I came on board last May. I was asked to look into home health care in the areas of fraud and abuse. On September 13, 1976, we held our first hearings in concert with the House Ways and Means Health Subcommittee in which we identified that there were some indications of private and nonprivate home health agencies throughout the country that were billing for many more services than the voluntary nurses associations (VNA's) were giving and we also had indications that proprietary agencies were doing the same thing and there was a vast difference in the cost per client or per patient in comparison with the VNA's.

Then after those hearings I was asked to look into detail and select a couple of agencies and find out whether in fact they were abusing the system. So this particular agency was selected from approximately 30 or 40 home health agency cost reports that I had gotten through the Bureau of Health Insurance which is responsible for administering the medicare program. From those 30 or 40 cost reports which I selected at random—there is one sheet attached to those cost reports which breaks down and itemizes some of the agency expenses, and just from that breakout of costs I could tell that this agency might be abusing the reimbursement system.

In addition to that first indication, someone by the name of Jack Stewart, controller of this particular agency, shows up in my office

3,000 miles from California inquiring as to why we had requested Home Kare's cost report. Various regional offices throughout the country of BHI, when we had requested the cost records under the Freedom of Information Act, sent letters to the providers saying that John Markin of the Ways and Means Committee staff, had requested their cost report. Out of probably 150 cost reports which we selected throughout the country, this was the only agency to come all the way across the country or to come at all and question as to why we had sent for their cost report. I believed that action in itself was pretty suspicious.

The third indication was in talking with Mr. Stewart I learned that he was a former auditor with the Travelers Insurance Co. Well, I knew that the Travelers Insurance Co. is the fiscal intermediary for this particular home health agency. The fiscal intermediary is the entity that processes Home Kare's claims for payment. When the agency makes a patient visit the Travelers Insurance Co. is supposed to determine whether or not it is a valid visit and Travelers is responsible for reimbursing the agency for that visit and also responsible for verifying that the costs of doing business in that agency are reasonable costs. Travelers is also responsible for auditing Home Kare. So that was indicator No. 3.

My fourth indication was someone in California had read through an association newsletter that the House Ways and Means Oversight Subcommittee was interested in possible fraud and abuse in home health agencies. I was in the office one day and got a call. Someone had some information on a home health agency that was abusing the medicare program. It turned out to be the same agency, Home Kare, Inc. That is how we initially got involved with this agency.

I do want to make it clear that I don't have a vendetta against this agency. I am sorry someone has to be singled out. I hope everyone stays tuned tomorrow because we have another person that is also abusing the system, someone that I believe was kicked out of the medicaid programs. He turned around and went into the medicare program and walked away from the medicare program owing between $400,000 and $800,000 in overpayments. He then voluntarily withdrew from that program and is now in another HEW program, title XX, which also provides homemaker services. All three programs are administered by HEW.

So I do want to make it clear that this is one agency and we will be talking about another tomorrow. I know there are many other agencies throughout the country that are doing the same thing, but on the other hand there are also some very, very dedicated nurses and physicians that I have met during the course of my investigation that unfortunately will get slapped on the face because of this type of hearing but there are some dedicated and good home health agencies out there.

One other point I would like to make here is that we are talking about patient care. The money we will be talking about is supposed to be going to patients that are being taken care of in their home. I am talking about three programs, title XVIII, XIX, and XX, all under the Social Security Act. One is medicare, title XVIII; one is medicaid, title XIX; and the other is social services such as homemakers which is title XX.

All those dollars are supposed to be for patients that are confined to their home and the majority of them are elderly, of course. I think you will be astonished by the things that are being paid for and I just wish that some of the people that work in those coal mines up in Pennsylvania knew what their Federal dollars and tax dollars were going for.

Mr. HALAMANDARIS. Mr. Markin, you are about to present the findings of the audit that you conducted for Home Kare, Inc., is that correct?

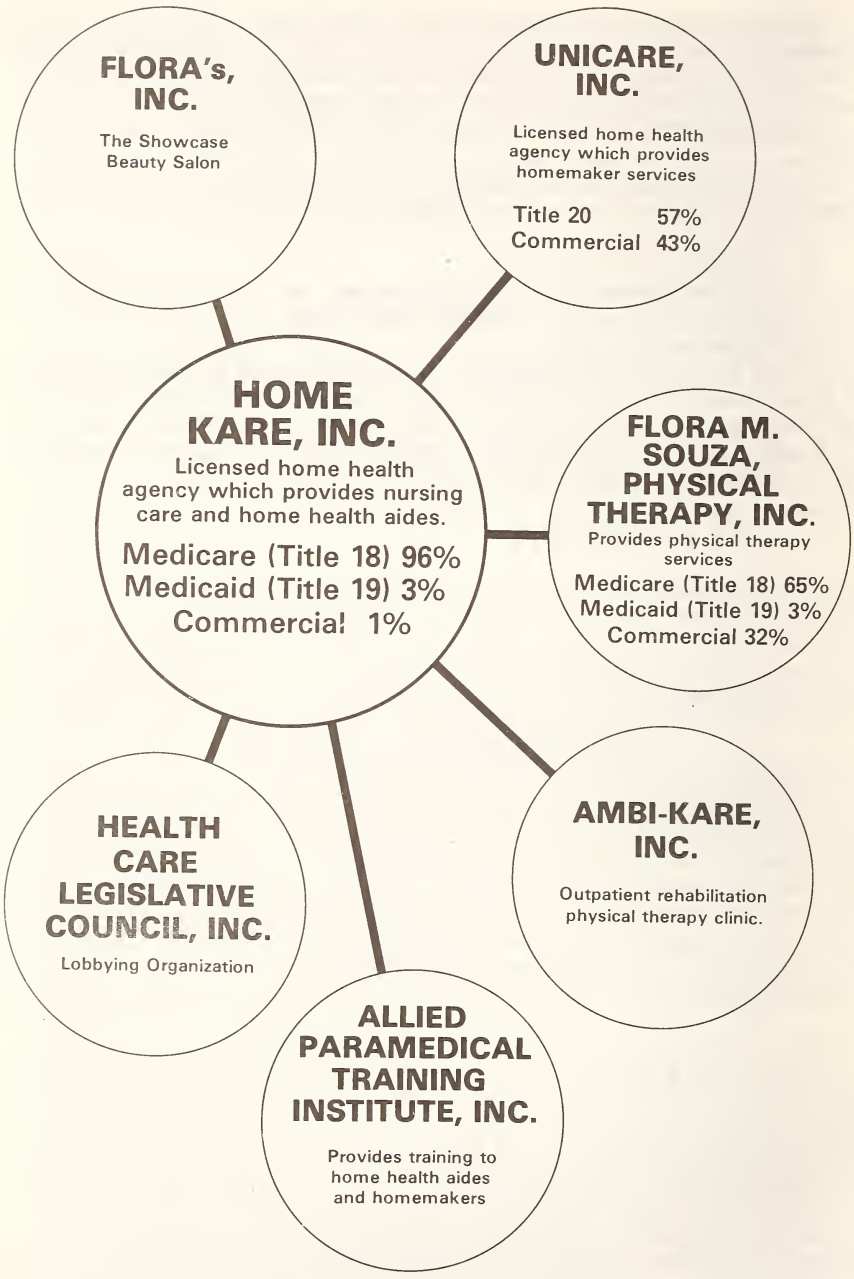
Mr. MARKIN. That is correct.

Mr. HALAMANDARIS. We would appreciate it if you would talk into the microphone. It is a little difficult to hear you.

Mr. MARKIN. All right.

I have got a prepared statement. I am only going to read some of it. I won't read it word for word. Then I have some charts and I will give some examples of what we found during our investigation.

I will start with the first chart and just show basically the structure of the corporations that we are going to discuss.


FLORA's, INC.
The Showcase Beauty Salon
UNICARE, INC.
Licensed home health agency which provides homemaker services
Title 20 57%
Commercial 43%
HOME KARE, INC.
Licensed home health agency which provides nursing care and home health aides.
Medicare (Title 18) 96%
Medicaid (Title 19) 3%
Commercial 1%
FLORA M. SOUZA, PHYSICAL THERAPY, INC.
Provides physical therapy services
Medicare (Title 18) 65%
Medicaid (Title 19) 3%
Commercial 32%
HEALTH CARE LEGISLATIVE COUNCIL, INC.
Lobbying Organization
AMBI-KARE, INC.
Outpatient rehabilitation physical therapy clinic.
ALLIED PARAMEDICAL TRAINING INSTITUTE, INC.
Provides training to home health aides and homemakers

That center agency is Home Kare, Inc. Now that is a home health agency certified in California. All these corporations are under one ownership and they are all located in the State of California although some are trying to branch into other States.

Home Kare, Inc., is a home health agency which is licensed. Most of its funds, as you will see, come from medicare, title XVIII. That is 96 percent of its revenues. Medicaid, title XIX, 3 percent. I want you to keep in mind throughout my presentation that there is little commercial business in many of these corporations. They are mainly Government funded. One percent of Home Kare's business is commercial.

Now the other corporations, there is Flora's, Inc. That is a beauty salon. We will get to that later as to why that organization appears on this chart.

Unicare, Inc., is a homemaker agency which contracts with individual counties throughout the State of California for homemaker services. Now this company employs people that go into the home and help the elderly prepare their meals and basic needs of that sort.

Unicare, like I said, is title XX. Those funds are competed for in the State of California. Counties award contracts on a competitive-bid basis and the way they award those is to the lowest responsible bidder.

Senator CHURCH. The counties award the funds in the State of California? Is it done by county government?

Mr. MARKIN. Yes; the individual counties determine which agency will be contracted.

So that is competitive. Title XVIII is on a reasonable cost basis and a prudent buyer concept meaning that the cost is reasonable for employing your nurses, leasing office space, paying your nurse's mileage to and from the patients' homes, et cetera. If those type costs are reasonable then those total dollars are paid.

Flora M. Souza Physical Therapy, Inc., is an organization that provides physical therapy to commercial business but they have been in the past contracting their services to Home Kare, Inc., so their reimbursement from medicare also has been based on reasonable cost. I believe in fiscal year 1976 Physical Therapy, Inc., charged Home Kare about $170,000 for providing physical therapy services to Home Kare.

Ambi-Kare, Inc., is an outpatient rehabilitation clinic which is just now getting off the ground. I think it had only about $30,000 worth of business during its fiscal year 1976.

Allied Paramedical Training Institute, Inc., is a corporation that provides training to homemakers and home health aides and supposedly all those people that have been trained were later hired by Home Kare, so all the costs incurred by that organization were dumped into Home Kare, Inc.

The other organization is Health Care Legislative Council, Inc. Now this corporation was formed basically to organize various home health agencies in the State of California and was to act as a lobbying organization. It really never got off the ground but it did incur costs and those costs were absorbed by Home Kare, Inc.

There was also at one point another agency which we didn't put on the chart, Complete Health Care, Inc., which was a health maintenance organization—a health plan that this corporate structure was trying to get started but so far has not been successful.

Now the one thing you have to keep in mind is medicare pays reasonable costs—those costs which are supposedly directly related to patient care—and they are supposed to be reasonable costs. One of the

purposes of this corporate structure is to funnel many of its overhead costs into Home Kare because it is going to be reimbursed because medicare pays on the basis of cost.

Senator CHURCH. So what you have here are seven corporations all owned by the same person.

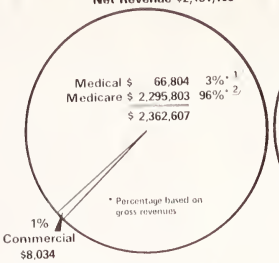
Mr. MARKIN. Yes; the same person.

Revenue and Expenses — All Companies

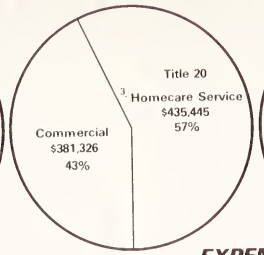
Fiscal Year Ending March 31, 1976 (Unaudited)

REVENUES

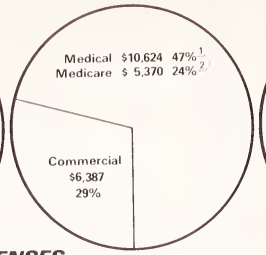
HOME KARE INC.
Gross Revenue $2,370,641
Contract Disallowance $ 239,532
Net Revenue $2,131,109



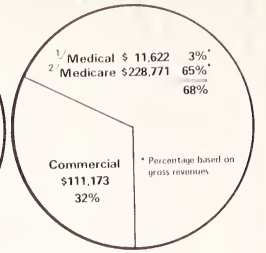
UNICARE INC.
$816,771



AMBI KARE INC.
$22,381

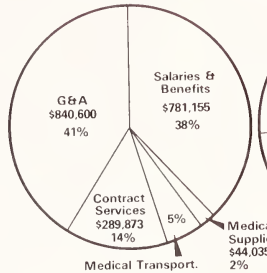


PHYSICAL THERAPY INC.
Total Revenue $351,566
Disallowance $ 9,796
Net Revenue $341,770

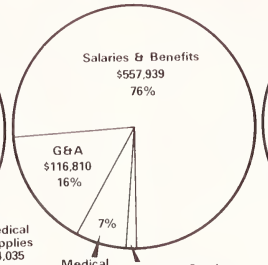


EXPENSES

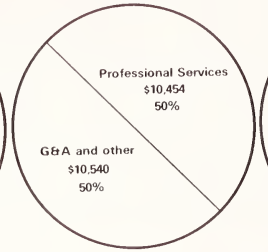
HOME KARE INC.
$2,057,188



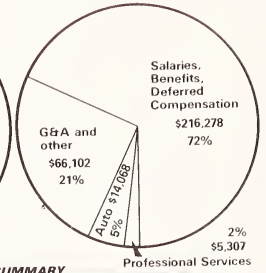
UNICARE INC.
$737,320



AMBI KARE INC.
$20,994



PHYSICAL THERAPY INC.
$301,755



NOTES

1/ Reimbursement based on Fee for Service (Reasonable, customary and prevailing charge, as determined by relative value study)

2/ Reimbursement based on DHEW established cost principles, as exemplified by Medicare provides reimbursement manual

3/ Reimbursement based on competitively awarded contract rates

SUMMARY

Company	Medical	Medicare	Title 20	Commercial	Total
Home Kare Inc.	$66,804	$2,295,803		$ 8,034	
Unicare Inc.			$435,445	381,326	
Ambi-Kare Inc.	10,624	5,370		6,387	
Physical Therapy Inc.	11,622	228,771		111,173	
Total	$89,050	$2,529,944	$435,445	$506,920	$3,561,359
	3%	71%	12%	14%	100%

Senator CHURCH. And six of those organizations are billing Home Kare and Home Kare is getting reimbursed through the medicare program, 96 percent through the medicare program, 3 percent through the medicaid program. So 99 percent of the money that Home Kare realizes comes from the public programs, either medicare or medicaid.

Mr. MARKIN. Ninety-nine percent of Home Kare's, yes, but like in Flora M. Souza Physical Therapy, Inc., only $170,000 was charged to Home Kare in its fiscal year 1976.

Now you said billing. The Physical Therapy, Inc., did bill the $170,000. The others have just funneled their costs into Home Kare like the Health Care Legislative Council, Inc. We have not found any financial statements or financial records for that corporation but we know of a person who spent quite a bit of his time trying to get that organization off the ground.

Well, all those costs which were incurred in getting corporate organization and that sort of thing were then funneled into Home Kare. Also in the case of Allied Paramedical Training Institute, Inc., we asked for the financial records of that corporation but were told there were not any and that everybody that had been trained was subsequently employed by Home Kare. Well, Home Kare absorbed those organizing, promoting, and training costs.

Now we get to Flora's, Inc., which is the only one that is in some way not health care related, it is a beauty shop. We will give you some examples as to how the costs of the beauty shop were funneled into Home Kare.

The capital that comes from the Federal Government has been used to get things like the beauty shop started.

I will read just a few little parts of this which may give you a little further explanation. The results of all this are several. Now here is a real major one of which there is great concern in the State of California especially with some of those more dedicated agencies that I have been talking about.

Home Kare and its owner, Flora M. Souza, can underbid almost anyone for a title XX homemaker/chore contract in the State of California. We are talking about Unicare, Inc. Now how is that done? It is on a competitive bid basis, everybody has to bid on how much they will charge for an hour's worth of service and then the county selects that agency which is the lowest responsible bidder. All right.

Now how can Mrs. Souza underbid? Well, her administrative staff—let's say she is going to try to bid for a contract in San Mateo County. Let's say she has 10 administrative staff. She can have that administrative staff, being paid by Home Kare, because in almost each one of these locations throughout the State she is going to have a Home Kare office so those people are going to not only do work on Home Kare title XVIII but they are going to spend a lot of their time on the title XX contracts. The funds that she receives from title XX are not going to have to pay those people's salaries, so right off the bat she has a competitive advantage over those people that don't have a home health agency on which to draw these funds for paying administrative salaries.

A second way that she allegedly has been able to obtain more business, is through political contributions. I think we have a witness today

that might be able to shed a little light on that. We also found that medicare has supported her and her many relatives in an opulent style of life.

We have come across serious questions about the quality of services that are offered by this agency, and remember again we are talking about patient care. We are talking finances now but it all comes down to taking care of people in their homes.

Another thing that we have come across is ever increasing income and subsequent power seems to somehow get back to the preferential treatment that she has had on the part of the Bureau of Health Insurance and the Travelers Insurance Co., which is the fiscal intermediary. As I said before, it is the Travelers which is responsible for reviewing Home Kare's billings and paying them if they are valid, rejecting them if they are not valid, and auditing and determining whether the costs of the Home Kare organization are reasonable.

Well, I will go into a few examples now.

Senator DOMENICI. Mr. Chairman, might I ask a question?

Senator CHURCH. Yes, Senator Domenici.

Senator DOMENICI. Have you audited any entities comparable to Home Kare, Inc.? Have you audited any others that purport to deliver what Home Kare, Inc., delivers?

Mr. MARKIN. You mean other agencies not related to Home Kare?

Senator DOMENICI. No, any other institutions that are delivering the same kind of services as Home Kare, Inc., whether they are nonprofit or profit.

Mr. MARKIN. Well, I myself have not. I mentioned previously that in the September 13, 1976, hearings that we had, we showed that there are indications throughout the country that the same sort of thing is going on. I could probably come up with a list of 20 or 30 right now that I could give you that if we investigated them I would be willing to bet that of the 30, say 25 would be similarly abusing the medicare program.

I will mention that last year Senator Lawton Chiles from Florida and his staff looked into several home health agencies in Florida. Now these are what they call private nonprofits and as a result I think there were about four of them that have been indicted and the U.S. attorney is actively investigating about three more on the basis of his work and the staff's work. So that is one reason we went across to the other side of the country to show that it is not located just in Florida.

Senator DOMENICI. The point I would like to make is that if the corporations are abusing Home Kare, Inc.—if that is really an abuse—then the unitized cost of delivery by Home Kare, Inc., ought to be out of focus with some that are not abusing it. Do you know if that is the case?

Mr. MARKIN. I think I know what you are asking. The Bureau of Health Insurance so far in determining what a reasonable cost is in a home health agency has gone on the basis of what is their average cost per visit. OK. The average cost per visit of this agency is the lowest in the State. It is about $18.50 but how do they arrive at that $18.50?

CLEVELAND, OHIO

AGENCY	COST PER VISIT	VISITS PER PATIENT	COSTS PER PATIENT	TOTAL REIMBURSEMENTS
VNA	$17.24	17.13	$295.25	$674,647
A	$28.88	32.55	$940.24	$314,982

PHILADELPHIA, PA.

A	$22.83	10.43	$238.16	$1,053,128
B	$18.81	37.58	$706.88	$ 435,441

Source: Home Health Agency Statements of Reimbursable Costs; Form SSA-1728 (7-67)

Well, they arrive at that in this manner. This is just an example. Suppose a patient actually needs 15 visits. Well, you provide that patient with 25 or 30 visits. It is through volume that they reduce the average cost per visit. So that is how they have been overlooked in the past. Their average cost per visit is reasonable, $18.50. There are a lot of voluntary nurses associations throughout the State of California that their cost is $22 per visit but they are only providing 12 or 14 needed visits to that patient. The average number of visits for a medicare patient by Home Kare, Inc., is about 26.5 and about 19 for a commercial patient. Whereas, several VNA's in California provide about 14 visits per medicare patient. As an illustration of what is happening, I would call your attention to the chart where agency B, in Philadelphia, reported costs of $18.81 per visit, but so many more visits were given, the average costs per patient were $706.88, much higher than its counterpart, agency A, in that State.

Senator Domenici. Thank you, Mr. Chairman.

Representative Rangel. Mr. Chairman.

Senator Church. Mr. Rangel.

Representative Rangel. I can understand how Unicare's cost would be lowered as a result of many of their expenses being reimbursed through Home Kare and I think that is your testimony, isn't it?

Mr. Markin. Yes.

Representative Rangel. Nevertheless when the Senator made an inquiry as to the overall cost, have you got any information that would show the number of people that were supposed to be serviced throughout this corporate structure and just how much the Federal Government contributed toward that service? That certainly would increase the capital cost per patient outside of the so-called Unicare umbrella, would it not?

Mr. Markin. I am not quite clear on that.

Representative RANGEL. If I understand you correctly, then under title XX this Unicare Corp. is able to substantially underbid its competitors because so much of their cost per patient is picked up by Home Kare.

Mr. MARKIN. Right.

Representative RANGEL. My question to you, somewhere along the line you should be able to determine how many Federal dollars Home Kare receives. Is that a problem?

Mr. MARKIN. No; I can show you that in the next chart.

Representative RANGEL. Then you should be able also to determine how many patients come through the beauty shop or Physical Therapy Inc., or Ambi-Kare, generally speaking how many patients are serviced throughout this complex corporate structure rather than restrict yourself to how many are serviced under the Unicare contracts.

Mr. MARKIN. I can show you how many patients were provided care under the Home Kare Corp. Now those are patients and patient visits. Then I can also tell you that under Unicare in hours. Here is what happens. Let's say in Santa Barbara County in California the welfare department determines who needs the homemaker services. They estimate that there is going to be 20,000 hours of homemaker services needed for fiscal year 1977 so they go out to bid and they say, we need 20,000 hours of homemakers services and they ask for bids on a cost-per-hour basis. The lowest responsible bidder that comes and says, I will provide 20,000 hours at $5—everyone else is $6, $6.50, $7—the lowest responsible bidder will get the contract. So it is hours of service under title XX.

Now under Home Kare it is number of visits for so many patients but it is not reimbursed at so much per visit, the agency is reimbursed its reasonable costs of doing business during the year.

Now in a specific instance here for Home Kare's March 31, 1976. cost year, that is when the fiscal year ended. Home Kare says that they served 1,946 different patients during the year. That is almost 2,000 patients during the year. They say they provided 59,787 visits to those 2,000 patients. Does that help any?

Representative RANGEL. Well, you emphasized "they say." Do you have any reason to believe that they didn't?

Mr. MARKIN. Well, it took me 3½ months to get those figures that I just quoted. I requested BHI's help in getting those figures—well, for one thing this cost report was designed by BHI and if I was responsible for the program and I had a form that has all these various blanks on it that I requested to be filled in, I darn well would want them filled in when the agency sent the report in.

When I received this cost report from the Bureau of Health Insurance there were many items that were blank so I called BHI and I told them I wanted these missing items filled in. They in turn contacted the fiscal intermediary, Travelers. I first requested these figures in August and I didn't get them until the end of October. Later a Travelers' auditor told me that he had requested these same figures and it took about a month and a half until the controller of Home Kare sat down at an adding machine and in 5 minutes computed these figures and that is why I say supposedly.

No one has done a verification as to whether 1,946 patients were provided 59,787 needed visits. That is another area that I think should be looked into.

Representative GIBBONS. Mr. Chairman.

Senator CHURCH. Yes, Mr. Gibbons.

Representative GIBBONS. I realize there is a danger in oversimplification but as I understand it the gist of your case is that the number of visits and the time spent in the visits is questionable is that right?

Mr. MARKIN. Yes.

Senator CHURCH. I think that having presented the kind of brief overview of the corporate structure and an explanation of what is generally believed to be the case in connection with the practice of these corporations to bill or to pass to Home Kare their costs and thus to obtain additional business by bidding low for the title XX business and the thesis that Home Kare itself inflates the bills through medicare and medicaid, you have set out the general pattern. I wonder if you could proceed to give us specific findings which bear upon that pattern, the actual evidence of fraudulent practice.

Mr. MARKIN. All right, sir. As I go through a couple of these items I am going to send some pictures up where you can see just a few of the things that we are paying for through medicare. Remember, this is supposed to be patient care provided in the home and reimbursed for at reasonable cost.

The first thing we have here is a 1974 450 SLC Mercedes driven by Flora M. Souza, president of Home Kare, Inc. That cost $22,524. It is being depreciated over 4 years, no salvage value.

We have another Mercedes, 1974 450 SL. This is a Mercedes driven by Jack Stewart. He is the controller of Home Kare, Inc. He was also a former auditor with the Travelers Insurance Co. who was responsible for auditing Home Kare. He had the Mercedes, I believe, 1 month and 3 days prior to leaving Travelers.

Representative GIBBONS. These were billed to the U.S. Government, is that correct?

Mr. MARKIN. Yes; that is why I say the Bureau of Health Insurance in the past has said $18.50, that is a reasonable cost. They don't go beyond that. They don't do beyond $18.50 average cost per visit.

Senator CHURCH. Now these two Mercedes, were they purchased by Home Kare, Inc?

Mr. MARKIN. Yes; they were. The purchase invoices were signed by Flora M. Souza, president of Home Kare, Inc., and checks were Home Kare, Inc.'s and the Mercedes are being depreciated and charged to Home Kare's cost report and ultimately the medicare program.

Senator CHURCH. So these two Mercedes were actually purchased by the corporation. Now Mr. Stewart has one of them?

Mr. MARKIN. Yes.

Senator CHURCH. And Mrs. Souza has the other?

Mr. MARKIN. Pardon?

Senator CHURCH. Mrs. Souza has the other one?

Mr. MARKIN. That is correct.

Senator CHURCH. And Mr. Stewart was the auditor of the Travelers Insurance Co. who was charged under the law with auditing the accounts of Home Kare, Inc.?

Mr. MARKIN. That is correct.

Senator CHURCH. About 1½ months before he left Travelers Insurance he began driving this Mercedes, is that correct?

Mr. MARKIN. He had it 1 month and 3 days. He told us he didn't drive it until he handed in his resignation on April 1, 1974.

Senator CHURCH. He had it in his possession a month before he left his employment with Travelers?

Mr. MARKIN. He certainly did.

Senator CHURCH. And then having been the auditor for Travelers he was then employed by Home Kare, Inc., the very concern he was auditing, is that correct?

Mr. MARKIN. That is correct.

Senator CHURCH. At what salary?

Mr. MARKIN. Well, I think when he first—I want to be certain on this. I can provide it for the record later but I suggest it was about $24,000 when he first started. He is up to about $43,000 now.

Senator CHURCH. It ran in the neighborhood of about $24,000 up to $43,000 and plus the Mercedes.

Mr. MARKIN. That is correct, plus a business expense account.

Senator CHURCH. Plus expense account.

Mr. MARKIN. Plus pension plan where he does not have to contribute anything, plus medical insurance and life insurance.

Senator CHURCH. Life insurance, medical insurance, pension plan, to which he does not contribute.

Mr. MARKIN. Yes. He does not have to contribute. The Government will pay 100 percent of it for him.

Senator CHURCH. All through medicare and medicaid.

Mr. MARKIN. Well, not all—1 percent.

Senator CHURCH. Well 99 percent. [Laughter.]

All right.

Mr. MARKIN. Well, I have a few other things. I sent some pictures up. One is Mr. Stewart's Mercedes. I didn't get a picture of Flora's Mercedes because I believe it is parked in a garage.

Another thing we got that was charged to the medicare program was——

Senator DOMENICI. Mr. Chairman, might I ask a question?

Senator CHURCH. Yes.

Senator DOMENICI. Is Home Kare, Inc. a profit-making corporation by definition?

Mr. MARKIN. Yes; it is.

Senator DOMENICI. How much total business did they do?

Mr. MARKIN. Well, in their fiscal year ending March 31, 1976, about $3.5 million. Let me check that to be sure.

Senator DOMENICI. Do you have any opinion as to what a reasonable profit ought to be on a $3.5 million business?

Mr. MARKIN. Excuse me. Let me correct that. Their total business for these other corporations for March 31, 1976, not including Flora's, Inc., was $3.5 million. Just for Home Kare, it was about $2.3 million.

Senator CHURCH. I wonder if your audit will show what the margin of profit was for Home Kare and the other corporations. I think that is relevant. We ought to have it as a part of the record if you can provide it.

Mr. MARKIN. I will have to dig that out of the records.

Senator CHURCH. If you would please, I think it should be made part of the record.[1]

Representative PICKLE. Mr. Chairman, when they submit the information for the record I want it also to include that total dollar volume for each one of the companies.

Mr. MARKIN. I have that on the chart here if you would like to see it.

Senator CHURCH. Why don't you proceed then.

Representative GIBBONS. Before we leave Mr. Stewart driving around in his Mercedes let me see if I understand thoroughly who Mr. Stewart is. He is presently the auditor of Home Kare?

Mr. MARKIN. No; presently the controller.

I have seen documents where he has been the administrator, the financial director, the controller. He is the financial head. I don't know what he is called right now.

Representative GIBBONS. He was, at the time he started driving that Mercedes which the Government eventually paid for, an auditor for Travelers and was auditing Home Kare, Inc., is that correct?

Mr. MARKIN. That is correct. He had just finished up his audit.

Representative GIBBONS. He just finished it when he got the Mercedes?

Mr. MARKIN. Yes. I interviewed his former boss down in Pasadena one night and he admitted to me that the last month that Mr. Stewart was at Travelers he spent at least part of his time revising Home Kare's cost report so that he in effect was revising his own audit adjustments so that when he went to work for Home Kare he would not have to submit an amended cost report.

Representative GIBBONS. Thank you.

Representative JONES. Mr. Chairman, could I ask a clarifying question?

Senator CHURCH. Yes.

Representative JONES. On Home Kare, are they reimbursed for a visit or for an hour's visit? The reason I ask that—I am still having difficulty—is when all these satellite corporations are charging off expenses to Home Kare, how, Home Kare can provide the lowest cost per patient than anybody else in California, including nonprofit organizations. If they are reimbursed on an hourly basis, they still have fixed costs. Either they are padding the hours they are doing there or they are dropping by for a visit just to say hello.

Mr. MARKIN. Well, that is part of it. Under medicare home health regulations I believe you are reimbursed on a visit. What we have found to be true is that there is a heavy emphasis in this organization to provide a minimum of eight visits per day. It ranged between 8 and 10 and I have a statement that we can put in the record that there were some nurses that actually made 11 visits per day. You know patients are not lined up in a room, you have to travel all over the city to get from one to the other. I also can include into the record a statement that some of the nurses were not there in the home for more than 5 or 10 minutes.

[1] Impossible to determine accurately from records supplied by provider.

Representative JONES. Did you also, in your audit, audit the quality of the care in comparison to other agencies?

Mr. MARKIN. Well, we didn't audit the quality. The way you would have to audit the quality is to verify that the visit was actually made and go take a sample of patients that had been billed to the medicare program, go interview them and see if the visit was made and how long did the nurse stay and was the patient satisfied with the service. We have not done that but it is something that should be done. I know that the Bureau of Health Insurance has pulled a 100 patient sample but they have not conducted the investigation.

Representative JONES. Thank you.

Mr. MARKIN. It certainly needs to be done.

Representative CRANE. Mr. Chairman.

Senator CHURCH. Mr. Crane.

Representative CRANE. How often is Home Kare audited? I see that by the evidence here it was in May of 1974 that Mr. Stewart left Travelers Insurance to go to work for Souza. Have they been audited by Travelers since?

Mr. MARKIN. Yes; they have. They have been audited every year for each cost report. A typical audit—that is not just with the Travelers Insurance Co. We have seen it in other fiscal intermediaries, the normal routine audit of a home health agency is done in this manner. You take last year's cost report, you take this year's cost report, you set them next to each other and those individual items that have gone up, say, more than 3 percent or 5 percent you check into a little. Then you do a 3 day audit, which in 3 days you cannot even learn the format of the agency's financial records. Now the audit that was done this year was a much more detailed audit, the reason being the Congress got involved.

Mr. HALAMANDARIS. May I ask you some specific questions for your specific response, so that we can cover some ground rather rapidly here?

Am I correct that Mrs. Souza has three sisters that are on the payroll of Home Kare and could you tell me the salary of each?

Corporate Interrelationship with Affiliates and Subsidiaries Including Board of Directors, Principal Officers and Ownership

Fiscal Year Ending March 31, 1976

HOME KARE INC.

Board of Directors

	Shares
Flora M. Souza	90
David R. Sylva	
Sharon M. Jack	10

Officers

	Salary	
Flora M. Souza, President	$50,956	4/
David R. Sylva, Vice President		
Sharon M. Jack, Sec-Treasurer	$19,782	
Vivian Ascunsion, Staff	$19,736	

Advisory Board

Ralph Zezza	Vivian Ascunsion
Dr. Edward Lackner	David R. Sylva
Dr. Lou Lackner, Sr.	Dr. Eva Laskin

UNICARE INC.

Board of Directors

	Shares	*Dividend*	
Flora M. Souza	720	$16,000	1/
David R. Sylva			
Sharon M. Jack	140	2,000	

Officers

	Salary	
Flora M. Souza, President	$38,000	
David R. Sylva, Vice President		
Sharon M. Jack, Secretary	$21,600	
Vivian Ascunsion, Staff		2/

Advisory Board

Dixie Porter	Shirly Kenny
Daryl Canham	Georgia Kasey

	Shares	*Dividend*
Gregory Jack (no position in Co.)	140	$2,000

AMBI-KARE INC.

Board of Directors

Flora M. Souza
David R. Sylva
Sharon M. Jack

Officers

Flora M. Souza, President
David R. Sylva, Vice President
Sharon M. Jack, Sec-Treasurer

PHYSICAL THERAPY INC.

Board of Directors

	Ownership	
Flora M. Souza	100%	3/
David R. Sylva		
Sharon M. Jack		
Vivian Ascunsion		

Officers

	Salaries
Flora M. Souza, President	$30,400
David R. Sylva, Vice President	
Sharon M. Jack, Sec-Treasurer	
Vivian Ascunsion	$ 3,685

TOTAL SALARIES AND DIVIDENDS ALL COMPANIES

Flora M. Souza	$135,356	4/
Sharon M. Jack	$ 43,382	
Vivian Ascunsion	$ 23,421	
Gregory Jack	$ 2,000	

1/ F. Souza, excluding deferred compensation of $5,100/annually

2/ V. Ascunsion, excluding deffered compensation of $5,186/annually

3/ F. Souza, excluding deferred compensation of of $4,800/annually

4/ Reimbursement based on fiscal year ending March 31, 1972 base salary of $35,000 as adjusted by Bureau of Labor statistics-regionalized for Bay Area, San Francisco inflation factor

Mr. MARKIN. OK, I will try to do that. Yes, she has three sisters on the payroll. The first is Vivian Ascunsion. She receives $19,736 from Home Kare and $3,685 from Physical Therapy, Inc. Now the people we have interviewed say that Mrs. Ascunsion is responsible for administering Physical Therapy, Inc., yet almost all of her salary is paid by Home Kare plus she received the use of a leased Cadillac through Unicare. Now they switched it over and are leasing it through Physical Therapy, Inc.

Mr. HALAMANDARIS. Unicare paid the lease of $294 a month for that Cadillac, is that correct?

Mr. MARKIN. That is correct.

Mr. HALAMANDARIS. And Mrs. Ascunsion essentially provided no services for Unicare until recently, is that correct?

Mr. MARKIN. That is correct.

Mr. HALAMANDARIS. Do I understand a second sister named Mildred Laptalo also receives funds and an automobile?

Mr. MARKIN. Yes, sir, $14,000 and a leased station wagon. These automobiles were just to go from home to the office and back, it is not to see the patients in their homes.

Mr. HALAMANDARIS. Mrs. Hendry receives how much?

Mr. MARKIN. I believe it is $15,000.

Mr. HALAMANDARIS. Sharon Jack would be Mrs. Souza's daughter.

Mr. MARKIN. That is right.

Mr. HALAMANDARIS. Can you tell us the salary Mrs. Jack receives and what salary her husband Bob receives?

Mr. MARKIN. Sharon Jack receives a total of $41,400. She received about $19,781 in salary from Home Kare and $21,600 from Unicare for the cost year ending March 31, 1976.

Mr. HALAMANDARIS. Am I correct that the Jacks have the use of a Cadillac Seville which is leased through Unicare and the lease payments are $290.65 a month?

Mr. MARKIN. That is correct.

Mr. HALAMANDARIS. Am I also correct that Greg Jack, who would be Mrs. Souza's grandson, received dividends as a stockholder of Unicare?

Mr. MARKIN. That is correct, $2,000 and Mrs. Jack also received $2,000 in dividends. Then Bob Jack, the son-in-law, receives $13,000 in salary from Home Kare, Inc.

Mr. HALAMANDARIS. Are we correct that Mrs. Souza's combined salary and compensation from these six corporations, not counting the beauty shop, is $145,000 roughly?

Mr. MARKIN. Roughly.

Mr. HALAMANDARIS. For fiscal year ending March 31, 1976.

Mr. MARKIN. That is correct.

Mr. HALAMANDARIS. You mentioned that Mrs. Souza has the use of a Mercedes Benz 450 SLC. Can you tell us about the motor home? What was the purchase price of the motor home and how is it being financed and who is paying for it?

Mr. MARKIN. Well, the motor home was purchased at a cost of $35,000, financed over a 7-year period. Financing a loan over that 7 years will amount to $19,000 in interest. The motor home was purchased by Physical Therapy, Inc. Now Physical Therapy, Inc., has been a subcontractor of Home Kare. Every time Home Kare used that vehicle

Physical Therapy, Inc. charged $25 a day and 25 cents a mile to Home Kare and for the last year, in the Home Kare cost report, it includes $7,000 for the use of that motor home, so over 7 years you have got approximately $49,000.

Representative GIBBONS. What do they use the motor home for?

Mr. MARKIN. Supposedly to visit the other offices throughout the State of California but I believe there are going to be other witnesses that are going to testify that it is used for many purposes.

Mr. HALAMANDARIS. Mr. Markin, can you tell us if you have located any improvements to Mrs. Souza's home which were charged to medicare as leased property improvements or is that matter still under investigation?

Mr. MARKIN. Well, it is still under investigation but we have some very good indications that there were renovations made to her new home in Saratoga. We did get hold of a contractor last night and he has received some payments from Unicare, some from Home Kare and some by personal checks of Flora Souza. We also believe that there were renovations made at her former home which were charged to medicare.

Mr. HALAMANDARIS. Can you tell me whether Mrs. Souza's mother has received any services from Unicare or Home Kare?

Mr. MARKIN. Yes; she was a patient of Home Kare and she was in fact sick but we also have indications that she was provided some full time care and that may have been reimbursed through padding the mileage of a Home Kare employee.

Mr. HALAMANDARIS. Did Mrs. Souza claim her mother Rose Travasso as a bad debt?

Mr. MARKIN. Yes; she was a bad debt. I believe it was in 1974 but I can check.

Mr. HALAMANDARIS. The data that I have suggests services were allegedly offered on the first of January 1974. Is that correct?

Mr. MARKIN. I can't say off the top of my head but I am sure we have the document on file.

Mr. HALAMANDARIS. Can you tell us about the rental of a garage? Mrs. Souza has a two-car garage which I understand that she has been renting essentially to Home Kare and Physical Therapy, Inc. Can you describe those financial arrangements, please?

86-072 O - 77 - 3

Two-car garage owned by Mrs. Flora M. Souza, which was leased by Souza corporations

Mr. MARKIN. OK. From January 1974 to March 1976 Mrs. Souza was paid between $12,000 and $13,000 for leasing that garage for record storage. Home Kare paid $100 a month to rent that garage, Unicare paid $200 a month to rent the same garage, and Physical Therapy, Inc. paid $100 a month to rent the same garage. I also have an indication that the whole garage was not even used, that perhaps there was a car on one side and records stored in part of the other side. [Picture of garage on page 837.]

Mr. HALAMANDARIS. What is the rental on a square foot basis?

Mr. MARKIN. Well, if they had used the whole garage it would have been between—it depends on what square footage you use. Mrs. Souza is claiming 550 square feet in the garage. I don't believe there is that much space but it would vary between 72 cents and $1 per square foot. Comparable storage space in the San Jose-Campbell area rents for 21 cents per square foot.

Mr. HALAMANDARIS. Can you tell us if you have any knowledge of Mrs. Souza's charging the medicare program through Home Kare for alleged business meals which were in fact purchases of jewelry such as a jade necklace and earring set?

Mr. MARKIN. Yes; we have a couple of examples like that. I will be talking about that. We have one right up here on the next chart.

Senator CHURCH. Since this question has come up you have some documentation, I think. I have before me this statement and I would like you to verify it.

Home Kare charged medicare in this particular instance $47.47 for a dinner at the Senator Hotel allegedly attended by Mr. Duccini, Mrs. Souza, Mr. Stewart, and Mrs. Ascunsion for the purpose of expanding and revising the pension plan. This amount, $47.47 was included in Mrs. Souza's April 1975 expense report and paid for by Home Kare and you have the check and the number and the date.

Mr. MARKIN. That is right.

Senator CHURCH. Investigators retrieved the original bills from the Senator Hotel which show the purchase was actually not in the amount of $47.47 for lunch but $7.47.

Mr. MARKIN. That is correct.

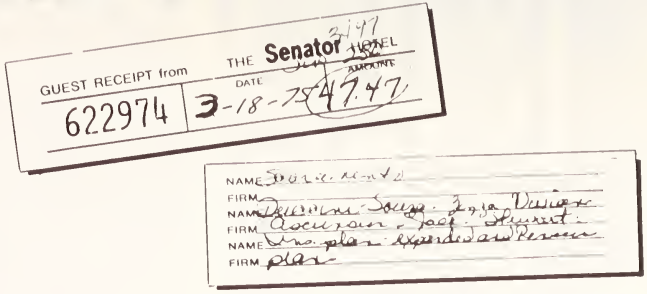
Senator CHURCH. For two cheeseburgers, one hot dog, one roast beef sandwich, and three Coca-Colas.

Mr. MARKIN. That is correct.

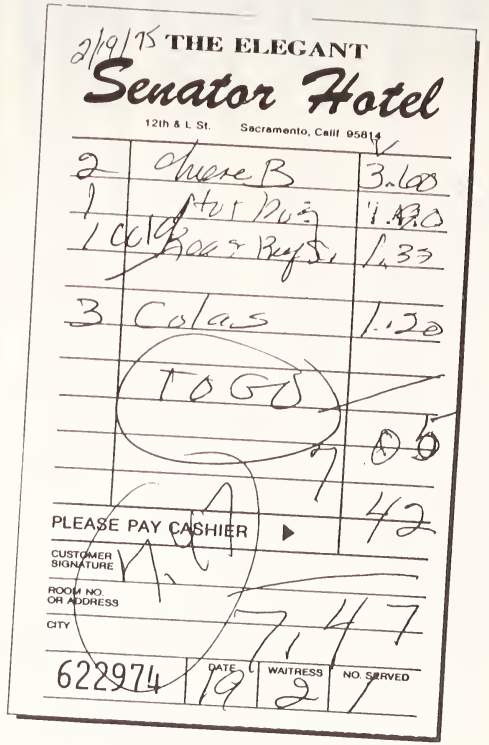
Now what happened was that Mrs. Souza was reimbursed $47.47 and thus profited by $40.

That is one example.

KITING RESTAURANT RECEIPTS


GUEST RECEIPT from THE Senator HOTEL
DATE 3-18-75 AMOUNT 47.47
622974

NAME Souza, Mrs.
FIRM Duccini - Souza - Ascunsion - Stewart -
NAME Exp. plan - expand and revise pension
FIRM plan


2/9/75 THE ELEGANT
Senator Hotel
12th & L St. Sacramento, Calif 95814

2	Chse B	3.00
1	Hot Dog	1.10
1	Cold Roast Beef Sw	1.35
3	Colas	1.20
	TOGO	
		7 05
		42
PLEASE PAY CASHIER ▶		
CUSTOMER SIGNATURE		
ROOM NO. OR ADDRESS		
CITY		7 47

622974 | DATE 19 | WAITRESS 2 | NO. SERVED 1

1. Home Kare charged Medicare $47.47 for dinner at Senator Hotel allegedly attended by Mr. Duccini, Mrs. Souza, Mr. Stewart and Mrs. Ascunsion "To expand and revise pension plan." Included in Mrs. Souza's April 1975 expense report. Paid by Home Kare check #4169 dated 4/25/75.

2. Original bill #622974 from the Senator Hotel shows purchase in the amount of $7.47: Two cheeseburgers, 1 hot dog, 1 roast beef sandwich and 3 colas to go.

Representative GIBBONS. $40?

Mr. MARKIN. Well, it was originally a $7.47 bill and it was altered to read $47.47. The check on the right is the one that we got, it is a restaurant check you get with your meal. That is what was purchased. The restaurant check stub originally read $7.47 but somebody put in a 4 so now it reads $47.47. Then on the back of the restaurant check stub is written that this was a business related meal and conference and there are some names jotted down on it but in fact it was like you said, Senator, two cheeseburgers, one hot dog, one cold roast beef sandwich, and three colas to go.

We have a few more examples along that line that we can run through if you like.

Senator CHURCH. Let's run through them to see the nature of the kiting and the double billing that was going on.

Mr. MARKIN. All right. Now on that one we had photographs of the actual receipts because we had the originals from the hotel. On these other charts we have only a few of the original documents but I didn't have them at the time I gave the information to the photographer.

KITING MEAL EXPENSES AND DOUBLE BILLING

1. **On October 6, 1975 Flora Souza incurred an expense of $43.40 in meal expenses at Sebastian's, a restaurant in Campbell, California. The restaurant bill number is 46783. This amount was charged on American Express and paid by Home Kare as per check #6122 dated 12/1/75. Supposedly present were: Sylva, Hellman, Zezza, Souza and Stewart. The purpose was to discuss "Home Kare repayment to Travelers."**
2. **Souza's November 1975 personal expense report shows Souza submitted Sebastian's restaurant check stub #46783 to support dinner for herself, Dr. Cahn and wife, Mr. Yoshita and wife, Dr. Randal and wife, Sharon and Bob Jack, Dr. Weeks, and Dr. Lackner. The meal supposedly took place on November 13, 1975, and cost $220.00.**
3. **This amount $220.00 was paid to Flora Souza as per Home Kare check #6421 dated 1/5/76.**

Now on this chart there is an expense incurred of $43.40, at Sebastian's restaurant in Campbell, Calif. The restaurant bill number is 46783. The $43.40 amount was charged on American Express and paid by Home Kare and we have the date of the check and the number of the check. Attached to the remainder of these charts are photocopies of the actual Home Kare and Physical Therapy, Inc. documents which verify that what we have written on the charts is accurate.

No. 1 was billed to American Express and American Express paid for it, $43.40. Supposedly present at the business-related meal were Sylva, Hellman, Zezza, Souza, and Stewart and the purpose was to discuss Home Kare repayment to Travelers.

Now when you come down to No. 2, remember the meal has already been paid for by Home Kare via American Express. The same meal was also charged on Mrs. Souza's personal expense voucher. What

they did, they took the little tear off restaurant stub number 46783 and altered it and that says that it was supposed to be a dinner for herself, Dr. Cahn and wife, Mr. Yoshita and wife, Dr. Randal and wife, Sharon and Bob Jack, Dr. Weeks and Dr. Lackner. The meal supposedly took place on November 13, 1975, and somehow this meal cost $220.

Now it is the same restaurant check stub, the same number on the check stub as the restaurant check at the top of the chart but what they did, they had the bank restaurant check stub and they just filled in a phony date and amount so the effect is the meal gets paid for through American Express plus Mrs. Souza gets $220 extra through her personal expense account. We have got the checks to show that they were made out by Home Kare, a Home Kare check made out payable to Flora M. Souza. The back of the check is endorsed Flora M. Souza for deposit only.

Representative GIBBONS. Let me ask you a question because I am surprised that the Travelers auditor or the BHI auditor would allow anybody to charge meals as being reasonable and necessary expenses for home health care. Now is this unique to this particular instance? I realize there is some padding here in addition to everything else but just the act of charging luncheons or any meals to the Government through reasonable and necessary expense reimbursements, is that practiced very wide in this program?

Mr. MARKIN. Yes; there are agencies that don't do it and there are many that do.

Now I am talking about meal after meal after meal after meal after meal. Right in the San Jose area the majority of the people that go to these meals are Home Kare employees; several Home Kare employees, mainly Mrs. Souza and some of her relatives are reimbursed for many of their lunches and dinners.

Representative ROSTENKOWSKI. Mr. Chairman.

Senator CHURCH. Mr. Rostenkowski.

Representative ROSTENKOWSKI. Mr. Markin, I know you have zeroed in on this particular home care corporation. Have you done any investigating with respect to kiting bills in other corporations such as this?

Mr. MARKIN. No, I personally have not.

Representative ROSTENKOWSKI. I would like to know if this is standard operational procedure with these people? I mean is this doing business? For people in the home health area, is this standard operational procedure?

Mr. MARKIN. Well, like I said, it is not done in many agencies but there are many agencies that would do this sort of thing. We have gotten indications that as long as the Government is paying for it, nobody cares what is charged.

Representative ROSTENKOWSKI. What I am trying to get at, Mr. Chairman, is I would dislike very much finding that this is the norm, that everybody is doing this in order to stay in business.

Mr. MARKIN. Well, I would not go so far as to say that everybody is doing it. There are many agencies that are but I would have to say that I feel that there are more agencies that aren't but the longer this goes on the more and more people get into it that are trying to abuse the system. They see somebody right across the street in another agency getting away with it and pretty soon you have got another dozen that are doing it.

I do want to put one other thing in the record.

Representative ROSTENKOWSKI. How would you compare the cost controls of profit-making corporations that provide these services with the visiting nurse association?

Mr. MARKIN. Well, in my contacts in the last year I learned that one cannot even talk finances with the VNA's, they constantly talk quality care. I have been very impressed with the dedication of those people and if I had to choose between the private nonprofits, VNA's, or the proprietary agencies, I would certainly lean in the direction of the VNA's. Their biggest problem is just not knowing the good accounting procedures, not having the financial background in terms of making sure they get the best cost on purchasing supplies and that sort of thing but they are much more into the quality of care.

Senator CHURCH. I wonder if there are any further questions along this line.

Go ahead with further specific findings in the administration of kiting of the restaurant bills. We have had an illustration of double billing. Can you give us some further illustrations of what you found?

Mr. MARKIN. I will just let Carl pick one. While he is doing that I would like to put on the record one other way that Mrs. Souza is going to be able to profit from her corporate structure in having her own home health agency. She has recently entered a partnership. I believe one of those pictures up there is of a medical building, two large medical buildings located near Los Gatos, Calif. She just moved into those medical buildings within the last week or two and she will profit from them. The garage deal was a good thing so now she is going to lease her own office space at a cost of about 70 cents per square foot. So most of these corporations are now moved into that office building, so this is going to be another way of getting additional income.

CLOTHING PURCHASES DISGUISED AS BUSINESS MEALS

1. Souza's BankAmericard statement for March 12, 1976, shows $170.20 meals entry at the Dockside Trading Company, Sacramento California for purchases on January 30, 1976.

2. A notation on this statement reads "Dinner Home Kare Sacramento Staff to discuss patient care."

3. This amount was paid by Home Kare per check # 7298 dated 3/26/76 and thus charged to Medicare.

4. Investigation revealed Dockside Trading Company is a decorating studio and art gallery. BankAmericard charge slip obtained from Dockside indicates purchase made on January 30, 1976, by Flora M. Souza in amount of $170.20 for one caftan, one shirt.

Well, let's see what chart we have up here this time. This is clothing purchases disguised as business meals. Souza's BankAmericard statement for March 12, 1976, shows $170.20, a meals entry at the Dockside Trading Company, Sacramento, Calif., for purchases on January 30, 1976. A notation on that BankAmericard statement beside the entry of $170.20 reads: Dinner, Home Kare Sacramento staff to discuss patient care.

This amount of $170.20 was paid by a Home Kare check and was thus charged to medicare so BankAmericard's statement was paid by a Home Kare check and that Home Kare check was included in the total costs turned over to medicare. Investigation on our part revealed that the Dockside Trading Co. is a decorating studio and art gallery. The BankAmericard charge slip, the original which we obtained from Dockside, indicates the purchase that was made on January 30, 1976, by Flora M. Souza in the amount of $170.20 was for a caftan, and I am told that is one of those long flowing hooded capes and also something described as some sort of shirt.

We have other examples of this. Let's do another, Carl.

Now those documents up there are, like I said, photocopies of the originals and in some cases we have the originals. We just don't have them blown up like we did on that Senator Hotel example.

PERSONAL EXPENSES DISGUISED AS BUSINESS MEALS

1. Souza charges Medicare for two meals in Sacramento, California in amount of $125.08 and $10.55 as per February 18, 1975 American Express billing and Home Kare check #3915 dated 3/31/75.
2. For verification of said expenses Souza offers American Express receipts dated February 11, 1975, to Grebitus and Son of Sacramento indicating charges of $125.08 and $10.55. (Back of these copies shows supposed attendance by Souza, Stewart, Mary Baker, Carol Snow, Sharon Jack, Fred Keeley, Sara Teraniski, and Molly Warder.
3. Investigation revealed Grebitus and Son are jewelers and silversmiths, Sacramento, Calif.
4. Invoices obtained from Grebitus and Son show purchases of a basket and glassware on above dates in the above amount.

Here is another chart. Personal expenses disguised as business meals. Souza charges medicare for two meals in Sacramento, Calif., in the amount of $125.08 and the other is $10.55 according to a February 18, 1975, American Express billing. We have the Home Kare check that was related to that American Express billing and it was dated March 31, 1975. For verification of those expenses Mrs. Souza offered American Express receipts dated February 11, 1975, to Grebitus and Son of Sacramento indicating the charges of $125.08 and $10.55.

OK. Now on the back of that BankAmericard receipt were written these names: Souza, Stewart, Mary Baker, Carol Snow, Sharon Jack, Fred Keeley, Sara Teraniski and Molly Warder. Investigation again on our part revealed that Grebitus and Son are jewelers and silversmiths in Sacramento, Calif. The charges were supposed to be for meals. The invoices from Grebitus and Son show purchases of a basket—that was the $10 item—and the remainder of the $125 was for glassware, some different types of glasses.

Senator CHURCH. So here is a case of glassware and the basket, personal purchases at a jewelry store, being charged to the Government in the guise of meals expense.

Mr. MARKIN. That is correct. We also found a brass bed.

Senator CHURCH. You also found what?

Mr. MARKIN. We also found a brass bed.

Senator CHURCH. Brass beds?

Mr. MARKIN. Yes; there was a brass bed charged to one of the corporations. While at Home Kare we asked where that brass bed was and it was in Mrs. Souza's home. We also found other furniture purchases.

Another way of getting additional income was to buy furniture through the Showcase, the beauty salon, because Mrs. Souza had a retailer's card which enabled her to buy at a discount—well, I will just give an example. One purchase involved about $2,000 worth of an antique conference table and chairs. Mrs. Souza bought it through The Showcase, say, at about $2,000. The Showcase then sold it to Home Kare at about $3,500 so the net effect is a $1,500 profit to the Showcase which is Flora's Beauty Salon.

Senator CHURCH. Then the Government paid the $3,500.

Mr. MARKIN. Right. The cost was $2,000 and BHI is supposed to pay on the basis of cost but the Government paid $3,500. We have several examples of that.

How much more would you like?

Senator CHURCH. Why don't you proceed.

OBTAINING REIMBURSEMENT FOR MEAL EXPENSES TWICE ONCE BY HOME KARE AND ONCE BY PHYSICAL THERAPY INC.

1. On 12/12/75 Souza incurred an expense of $51.76 for meals at the Gazebo, Los Gatos, California. Supposedly present were: Vivian Ascunsion, Carol Snow, Jan Garcia and Ed Taylor "Continued discussion of P.T. referrals for increase business."

2. This amount was submitted to Physical Therapy Inc. per Souza's December 1975 expense report. Physical Therapy Inc. paid Souza as per check #5567 dated 1/29/76.

3. Master Charge invoice in amount of $51.76 for this same date was submitted to Home Kare. Home Kare paid Master Charge as per check #6692 dated 1/28/76.

Mr. MARKIN. All right. We have another chart up here. Now this one is obtaining reimbursement for meal expenses twice—once by Home Kare and once by Physical Therapy, Inc. On December 12, 1975, Souza incurred an expense of $51.76 for meals at the Gazebo, Los Gatos, Calif. Supposedly present were Vivian Ascunsion, Carol Snow, Jan Garcia, and Ed Taylor. The reason for the meal was continued discussion of P. T. referrals for increased business.

Now this amount was submitted to Physical Therapy, Inc., per Souza's December 1975 personal expense report and claimed as a business meal. There is a check from Physical Therapy, Inc., to Mrs. Souza and included in that check is that $51.76 amount. The actual amount of the check might be greater because it is for a whole month's worth of expenses.

Later Mrs. Souza's Master Charge invoice in the amount of $51.76 for the same date was submitted to Home Kare for payment as a business related expense. So you have got it being submitted to Physical Therapy, Inc., and paid directly to Souza and then you have got the the same restaurant receipt submitted to Home Kare and the amount is reimbursed to Master Charge. It is the same $51.76.

Here we have another example, jewelry purchases. These are not all the examples we have. We are just trying to show that we didn't just find one example but that a pattern does exist.

Senator CHURCH. Your purpose in showing these examples is to give us an indication of the various methods used either for inflating the bill to the Government or for double-billing the Government.

Mr. MARKIN. Right.

Senator CHURCH. And they are meant to be illustrative of the various fraudulent practices rather than to represent all of the fraud that you found.

Mr. MARKIN. That is right, and it is to show that there is a pattern here and we didn't find just one of these. I hope we are not being out of line.

JEWELRY PURCHASES DISGUISED AS BUSINESS MEALS

1. Souza's BankAmericard statement for October 1975 shows a September 10, 1975 entry of $138.45 at Fox's St. Francis in San Francisco.

2. Home Kare notation describes meal attended by Ralph Zezza, Dixie Porter, Sharon Jack, Bob Jack, Jack Stewart and David Sylva to discuss monies available for Good Sam Project.

3. This amount was paid by Home Kare check #5892 dated 11/5/75.

4. Investigation reveals Fox's St. Francis is a jewelry store in the St. Francis Hotel, San Francisco. Souza said purchase was for one set of jade earrings.

The next chart depicts jewelry purchases disguised as business meals. Mrs. Souza's BankAmericard statement for October 1975 shows a September 10, 1975, entry of $138.45 at Fox's St. Francis Hotel in San Francisco. The Home Kare notation describes that entry as a meal attended by Ralph Zezza, Dixie Porter, Sharon Jack, Bob Jack, Jack Stewart and David Sylva to discuss moneys available for Good Sam project. The Good Sam project is the new medical office buildings in which Mrs. Souza is a partner.

This amount was paid by Home Kare check No. 5892 and dated November 5, 1975. Our investigation revealed that Fox's St. Francis is a jewelry store in the St. Francis Hotel in San Francisco. We asked Mrs. Souza about the purchase and she admitted that it was for one set of jade earrings. I myself went to Fox's and spoke with the general manager of the St. Francis Fox's jewelry store and he got out his records and showed me the BankAmericard purchases and I saw the $138 purchase and jotted it down on a piece of paper. Then he sent his assistant to get the document photocopied and before she got back with the photocopy the president of the jewelry store walked in and threw me out and said I had to have a subpena.

Senator CHURCH. But Mrs. Souza told you the purchase was for jade earrings.

Mr. MARKIN. Yes; she told one of the auditors that was assisting me with the investigation.

Senator CHURCH. The jade earrings were billed as a meal and the meal was paid for by the Government.

Mr. MARKIN. Yes.

JUSTIFYING MEALS BY CLAIMING TO ENTERTAIN PEOPLE NOT IN ATTENDANCE

1. On September 13, 1975, Souza charged a meal at Sebastian's restaurant in Campbell, California. American Express receipts show the cost at $112.35, which was paid by Home Kare as per check #6122 dated 12/1/75.

2. Supposedly present at this meeting were: Al Fox, Jack Stewart, Mai Alquist, Bob & Sharon Jack, Mr. and Mrs. Kaitz. The purpose was: "Discussed possibility of changing intermediaries."

3. Al Fox of the Bureau of Health Insurance provides a sworn statement that he was not present at the meal. He was not in California on that day (September 13, 1975).

All right. The next chart indicates that Home Kare has been justifying meals by claiming to entertain people not in attendance. On September 13, 1975, Souza charged a meal at Sebastians Restaurant in Campbell, Calif. American Express receipts show that the cost of $112.35 was paid by Home Kare on check No. 6122 dated December 1, 1975. Now supposedly present at this particular meal were Al Fox, Jack Stewart, Mai Alquist, Bob and Sharon Jack, and Mr. and Mrs. Kaitz.

The purpose was to discuss the possibility of changing intermediaries. Now you will notice Al Fox is with the Bureau of Health Insurance under the Social Security Administration responsible for administering the medicare program. I interviewed him the other day and I asked him if he was in California and he provided me with a sworn affidavit that he was not present at the meal nor was he in California. [See affidavit, page 851.]

Also, one of the people that were listed as being present at this meal was Mai Alquist, wife of one of the State senators in California. She received $1,815 in consulting fees for Home Kare and did some work in helping establish the Home Kare Sacramento office. I want to enter three other examples in the record at this time. [See pages 852–854.]

STATEMENT

The deponent, Albert Fox, being duly sworn upon oath, deposes and says:

(1) That he is an employee of the Federal Government assigned to the Bureau of Health Insurance of the Social Security Administration in the Department of Health, Education, and Welfare;

(2) That both his personal records and the records of the Bureau of Health Insurance show that he was not in the State of California on September 13, 1975, and could, therefore, not have participated in any meetings or luncheon in that State on that date;

(3) That, in fact and in truth, he was not in the State of California on September 13, 1975.

Albert Fox
Bureau of Health Insurance
Social Security Administration
Department of Health, Education,
and Welfare

Subscribed and sworn before me
this 4th day of March, 1977

Richard J. Robb
NOTARY PUBLIC
My Commission Expires: 07-01-78

CLOTHING PURCHASES DISGUISED AS BUSINESS MEALS

1. Souza charges Medicare $216.20 for a meal in San Francisco as per 1/20/76 American Express expense billing and Home Kare check #6908 dated 2/20/76.
2. Supposedly attending the meal at Maison-Mendessolle in San Francisco were: Souza, Stewart, Keeley, Ralph Zezza, Sharon Jack, Robert Jack, Georgia Casey, Carol Snow, Mary Register.
3. Investigation revealed Maison-Mendessolle is a woman's wearing apparel store located in the St. Francis Hotel, San Francisco.
4. Copy of sales slip certified by Maison-Mendessolle comptroller shows $216.20 in clothing purchases by Mrs. Flora Souza on December 29, 1975 charged to American Express.

OBTAINING REIMBURSEMENT FOR MEALS TWICE, ONCE FROM HOME KARE AND ONCE FROM PHYSICAL THERAPY INC.

1. On 12/17/75 Souza incurred an expense of $43.29 for lunch and bakery products at the Nut Tree Association near Sacramento California. Supposedly present were Ermine Duccini and others, "Employee birthday party."

2. This amount was submitted to Physical Therapy Inc. as per Souza's December 1975 expense report. Physical Therapy Inc. paid Souza as per check #5567 dated 1/29/76..

3. Master Charge invoice in amount of $43.29 for 12/17/75 at the Nut Tree Association was submitted to Home Kare and paid to Master Charge as per Home Kare check #6692 dated 1/28/76.

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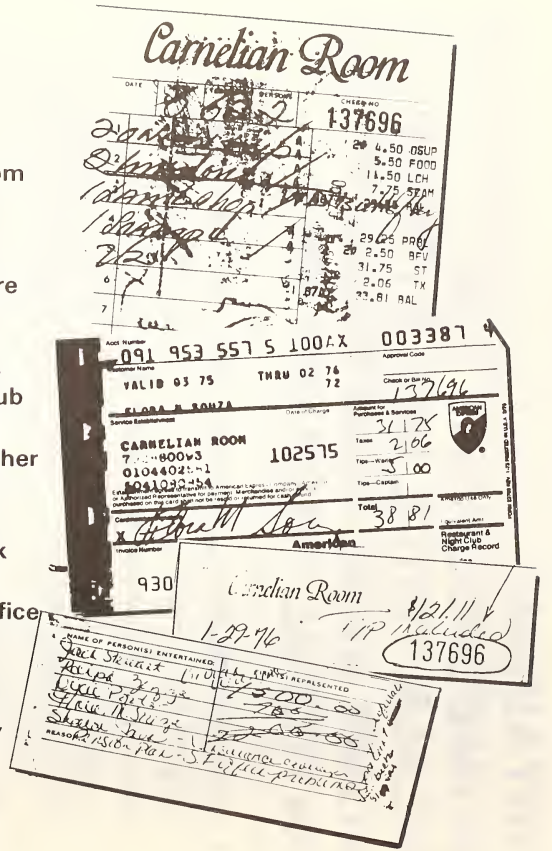
KITING AND DOUBLE BILLING

1. On 10/25/75 Flora Souza charges $38.81 to American Express for meal at Carnelian Room San Francisco, restaurant check # 137696.

2. This amount was included in an American Express billing which was paid by Home Kare 12/17/75.

3. In her January 1976 personal expense report, Flora M. Souza used the restaurant check stub #137696 which was dated 1/29/76 from the Carnelian Room to justify reimbursement to her of $121.11. The back of the stub notes the dinner was attended by Mr. Stewart, Ralph Zezza, Dixie Porter, Mrs. Souza, Sharon Jack and Mrs. Ascunsion to discuss "Insurance coverage, pension plan and San Francisco office problems - referrals of patients has been slipping."

4. Souza was reimbursed $121.11 on February 9, 1976, as per Home Kare check #6730.



Senator DOMENICI. Mr. Chairman, might I ask, is this the same Al Fox that you indicated in your investigation to be a BHI employee to whom $139 was paid for a trip from Denver to San Francisco and return?

Mr. MARKIN. That is correct. It was to reimburse him for an air trip from Denver to San Francisco, or San Jose. He went down there to interview for a job. That is the only payment that I found that were made to him and that was to reimburse him for his airfare. That same job was subsequently offered to another HEW employee in San Francisco who was paid mileage to go to the San Jose Home Kare office to interview for the job. He subsequently turned down the same job. The same job was also offered to an HEW employee who at the time I believe was assigned to the office of the Secretary of HEW. This person subsequently took the job but I believe had sense enough to get out of the Home Kare corporate structure. She left in December 1976 and is no longer in Home Kare.

Senator DOMENICI. Who was that person?

Mr. MARKIN. Pardon?

Senator DOMENICI. Who was that person?

Mr. MARKIN. The one who subsequently left HEW and did take the job?

Senator DOMENICI. Yes.

Mr. MARKIN. A Miss Sidney Sholl. She told me she believed she was hired by Home Kare to act as a pipeline into the office of Secretary Mathews in terms of getting additional funds through cancer grants, alcohol grants, various grants that may be gotten through HEW. While she was there at Home Kare she was paid her salary by Home Kare but much of the work she did was for Unicare and she tried to obtain additional sources of funding, but like I said she has since left Home Kare, Inc.

Senator DOMENICI. I want to ask you about one other person. You talked about the new venture of this lady in the medical building projects. Now, who is Edward Lackner and what relationship does he have to that new medical building project?

Mr. MARKIN. Edward Lackner is the brother of the State of California director of the Department of Health, Dr. Jerome Lackner. Dr. Jerome Lackner's father, a Dr. Lewis Lackner is also in partnership with Mrs. Souza in the medical building. So we have Dr. Ed and Dr. Lewis in partnership in the Good Samaritan Medical office building of which Home Kare is now leasing office space and I believe, so are many of the other corporations we showed on the first chart. I believe, the State people have looked into this. The Governor has gotten a couple of investigators to look into the relationship there and we maybe hearing from someone in that connection tomorrow.

Senator DOMENICI. You found nothing other than the relationship that you described at this point?

Mr. MARKIN. No; I didn't find anything else.

Senator DOMENICI. Thank you, Mr. Chairman.

Representative MARTIN. Mr. Chairman, if I may ask one question to try to get this into perspective so that I can understand it a little better, Mr. Markin, and to try to relate what you have shown us here in these kinds of examples to the title XVIII, title XIX and title XX program.

As I understand it from what you said, the Federal payment to Home Kare, Inc., and its affiliates is for x dollars per patient visit and this is based on a bid which is accepted by an appropriate level of government in California.

Mr. MARKIN. Did you say Home Kare?

Representative MARTIN. Yes, or whoever.

Mr. MARKIN. Home Kare.

Representative MARTIN. Or its affiliates.

Mr. MARKIN. Well, I will try to. I understand the difficulty. It took me a while to catch on, too, it is still confusing.

Home Kare is paid on a reasonable cost basis.

Representative GIBBONS. Reasonable and necessary.

Mr. MARKIN. Reasonable and necessary, and prudent.

Senator CHURCH. Reasonable and necessary for what?

Mr. MARKIN. For providing patient care and it is also on the prudent buyer concept. Now this is under medicare, title XVIII, of which I think we saw 96 percent of the funds for Home Kare were coming. So it is like I said. The overall average cost per visit is $18.50. The Bureau of Health Insurance has said it sounds reasonable so they have been paying the costs that have been incurred and claimed on these cost reports.

Representative RANGEL. Would the gentleman yield?

Representative MARTIN. Yes.

Representative RANGEL. Once a decision is made that the costs appear to be reasonable, must they then be substantiated by actual cost?

Mr. MARKIN. Must they be substantiated?

Representative RANGEL. Yes.

Mr. MARKIN. Like I mentioned before, there will be a brief audit, a desk audit.

Representative RANGEL. Let me try it another way. Assuming that the cost of $18.50 for a patient sounds reasonable compared to comparable costs by other agencies, must then you justify how you reached even that low cost?

Mr. MARKIN. Oh, sure. All those documents have to be in the financial records and the auditors who are supposed to audit should determine that the backup to that $18.50 cost, was reasonable.

Representative RANGEL. Whose responsibility is that?

Mr. MARKIN. Well, it has been delegated by BHI to the fiscal intermediaries.

Senator CHURCH. In this case the Travelers?

Mr. MARKIN. Yes; in this particular instance the Travelers Insurance Co.

Representative MARTIN. Even though these "meal" expenses are not billed directly to medicare and medicaid they are part of the program for justifying the auditor, through Travelers, that the original bid was a legitimate bona fide estimate of the cost of serving the clients.

Mr. MARKIN. They are billed ultimately to medicare but they go first through the fiscal intermediary.

Representative GIBBONS. Will the gentleman from North Carolina yield?

Representative MARTIN. Yes.

Representative GIBBONS. The whole thing that makes this attractive and shows that the incentives are put the other way, is that the

Government does not pick the intermediary to do the auditing but the audited agency, in this case Home Kare, picked Travelers, is that right? It is sort of a sweetheart arrangement. Those are pretty strong words but that is what is possible under the law?

Mr. MARKIN. Yes. The BHI will have a list of intermediaries. Let's say in California there may be five intermediaries. The home health agency has the right to select whichever one they want.

Representative GIBBONS. So if you don't like your intermediary and they are auditing you too closely, you can shop around and get another one.

Mr. MARKIN. Yes. If an intermediary treats an agency too harsh it will jump to another intermediary. The incentive for a fiscal intermediary is to pay the agencies' claims that come across the desk. Auditing is nothing but overhead to the fiscal intermediary. Those are additional costs, not income.

Representative GIBBONS. But the whole medicare program works that way, does it not?

Mr. MARKIN. I believe that is right.

Representative MARTIN. Well, now if these examples of misrepresented bills are the basis on which the auditor is supposed to then determine that the original bid, $18.50 per visit, is a legitimate cost of doing business and if this as appears constitutes a fraud, then how come everybody else is idle?

Mr. MARKIN. Well, there we get to the volume of visits.

Representative MARTIN. Is that a later presentation? I will wait if it is.

Mr. MARKIN. No. The volume of visits I went over a little bit earlier in saying that the way you reduce your average cost per visit is through volume. Let's say a person needs 15 visits. You give him 26. So we divide all the visits—almost 60,000 visits—into total costs, and it averages out to $18.50 a visit.

Representative GIBBONS. Here again will the gentleman from North Carolina yield.

What you are saying, inferring, or implying is that the visits were padded, am I correct? You can't determine that because you obviously can't follow each one of these people around. The inference is that the number of trips and the length of the trips and the services rendered are padded, is that correct?

Mr. MARKIN. We know that the length of the visits in some cases—we have got documents saying that some of the trips are very short because of the number that are given by a nurse in a single day. In an 8 hour day, 8, 9, 10, 11 visits a day. You can't be there too long. Like I mentioned before, another indication is that why should there be throughout the State an average of 14, 15, 16 visits per medicare patient for the VNA's and the proprietaries are 26, 27, 28 visits per medicare patient.

Senator CHURCH. Well, before I turn to Senator Domenici I have a couple questions.

Is the gentleman finished?

Representative MARTIN. Well, the gentleman from Illinois did want me to yield. You can recognize him later.

Senator CHURCH. I will do that.

My question is who is really minding the store? What real control is there on any of this? If an agency wishes to defraud the Government, all that it really needs to do is increase the number of visits beyond the necessary number and charge whatever amount is charged for a visit or they can claim to have made visits that were not really made. They can do it several ways. You can see a patient 10 or 12 times—we are talking about home visits. That is what is being paid for here, isn't it?

Mr. MARKIN. Right.

Senator CHURCH. You can just pyramid the cost to the Federal Government by increasing the number of visits well beyond the need of the patient and charge the Government for every visit and make money on each one and nobody is saying, "Hey, why did you have to go out and see this patient 10 times?"

Mr. MARKIN. Well, that responsibility is also Travelers.

Senator CHURCH. But obviously such excessive visits, if they are simply going to be paid, and the only standard is the cost per visit, the system has no control. The right questions are not being asked and it is an open invitation to an agency to defraud the Government. Isn't that right?

Mr. MARKIN. That is right. I would like to mention one other thing and that is that the Bureau of Health Insurance since 1970 has had numerous indications and complaints that this type of stuff that we just went over has been going on in this particular agency and it was not until Congress got involved that there was ever a detailed audit made.

Representative GIBBONS. Mr. Chairman, this gets sensitive and I may not be asking the right question. I am not going to ask you about any taxpayer information, but did you see any evidence of any IRS auditors around this place?

Mr. MARKIN. No; I didn't, but in talking with someone the other day I understand IRS audited this agency once, but I can't believe it.

Senator CHURCH. You understand what?

Mr. MARKIN. I understand that the IRS did an audit at one time.

Senator DOMENICI. Do you know when?

Mr. MARKIN. No, I don't. It would be something to look into.

Senator CHURCH. Senator Domenici.

Senator DOMENICI. Mr. Chairman, let me lay this foundation for our witness. I have visited both a nonprofit and a profitmaking home health delivery service in my State. As I listen to your testimony I find we are talking about two avenues for fraud; one is the quality of service and the other is in the nature of the expense items that cumulatively make up your costs upon which you base your reimbursable amount. Now in the two that I have seen, all home health care treatment is by a medical doctor's prescription. Is that the case here?

Mr. MARKIN. Yes; the physician has to authorize services.

Senator DOMENICI. So that in getting to the quality control issue, I assume we are fair in at least placing some responsibility on the medical doctor to determine whether or not the kind of service at the home is delivered as prescribed or not, is that correct?

Mr. MARKIN. That is correct.

Senator DOMENICI. Do you find any evidence that the doctors do not know about the excessive or inferior type treatment that you are describing to us today?

Mr. MARKIN. I am sure they know of the excessive treatment. I don't know whether they know the full type of care that is being given but I am sure they realize how many visits are given.

Senator DOMENICI. Now, secondly have you talked with the comptroller of this company personally?

Mr. MARKIN. Yes; I have.

Senator DOMENICI. Have you talked with him about the kinds of items you have described to us as business expenses but apparently are not, or about paying for services that are apparently not totally being rendered in the basic corporation?

Mr. MARKIN. Well, the examples of the alternations of the charge tags and restaurant billings, I don't believe we specifically mentioned those to the controller or to the Home Kare officials. The other items, of wondering where the brass bed was and the Mercedes and other personal expenses was brought to their attention. They had been asked about personal use of the autos, and signed statements to that effect. There are some things that we found during our investigation which we did not specifically bring to their attention, such as our knowledge of the alteration of records. I don't believe they knew that we had some of these examples.

Senator DOMENICI. Have you ever seen their books, their bookkeeping system by way of original entry, and how they keep them?

Mr. MARKIN. Yes; I have.

Senator DOMENICI. Do they treat any of these items differently in those books than you have found them to be treated for purposes of arriving at corporate cost for the delivery of the service?

Mr. MARKIN. Well, their books and records were in real disarray compared to most records that I have ever seen in a financial institution. They use photocopies of purchases as backup to an individual cost item and it is just sloppy recordkeeping.

Senator DOMENICI. Have you ever been shown a copy of a corporate income tax return by the auditor or by the comptroller?

Mr. MARKIN. Yes; we have seen corporate income tax returns. We have not seen personal income tax returns.

Senator DOMENICI. Any evidence that the corporate returns treat these items differently than they are being treated for purposes of arriving at medicaid and medicare costs?

Mr. MARKIN. I don't believe I could answer that. I was not that familiar with the corporate tax returns. I don't think we really got into a detailed analysis of those.

Senator DOMENICI. Is there any regulation that requires a corporation such as this, in its basic submittals to BHI, to divulge information such as interlocking corporations, dual employment in the corporate structures, and the like?

Mr. MARKIN. They do have to sign a statement saying what related organizations they deal with.

Senator DOMENICI. How about personnel that are similar to a multinational corporation, does it have to divulge that?

Mr. MARKIN. No; I don't believe so.

Senator DOMENICI. Thank you, Mr. Chairman.

Mr. MARKIN. One other thing that I would like to mention is that you see we have three sources of Federal health care dollars coming into these agencies. Now we have had several different organizations look at the Souza books. When the Travelers Insurance Co. went in and wanted to look at the books on behalf of medicare they were only allowed to look at the Home Kare books and the Physical Therapy, Inc,. books but Travelers was denied access to the Unicare books.

Unicare is a title XX organization. The president of Home Kare and the controller signed a statement saying there were no intercompany financial transactions so they were not allowed to look at The Showcase records or Unicare records or some of the other corporations. Now when the State auditors heard about possible improprieties going on, then they wanted to look at the records, too, so they were allowed to look at Unicare records on behalf of title XIX and title XX.

[The statement referred to follows:]

HOME KARE, INC.
COORDINATED HOME HEALTH SERVICES,
November 9, 1976.

Re Home Kare, Inc. All Provider Numbers.

TRAVELERS,
Los Angeles, Calif.
(Attention: Dale B. Munroe Medicare Manager).

DEAR MR. MUNROE: Reference is made to your letter to Mrs. Flora Souza of November 1, 1976. Please be advised that Home Kare, Inc., is a California Corporation, a single business entity, and it is a provider of services with separate provider numbers for each office it maintains throughout the State of California.

Unicare, Inc., and Flora's Inc., are also California corporations. These two separate and distinct business entities do not provide any services that duplicate or are related to the services of Home Kare, Inc. These two companies are not "related organizations nor are they a part of any chain operation or a branch of any operation controlled by Home Kare, Inc."

Section 2150 which you have cited provides that "a chain organization consists of a group of two or more health care facilities which are owned, leased, or through any other device controlled by one business entity." This definition fits the business operation of Home Kare, Inc., and its branch offices, but it certainly does not fit a combination of Home Kare, Inc., Unicare Inc., and Flora's Inc.

Basic accounting concepts hold the business enterprise (Home Kare, Inc.) as a specific entity separate and distinct from its owners and any other business unit. It is the entity and its activities that assume the focus of the accountant's attention. The Unit owns resources contributed by creditors and by its owners whether sole proprietor, partners, or stock holders.

On the basis of the foregoing, we hold that Unicare, Inc., and Flora's Inc., are corporations, each of which is a separate and distinct business entity, separate and apart from Home Kare, Inc., and neither of which lease from, or to, sells to, contracts with, or in any way enters into business transactions with Home Kare, Inc. Therefore, your request to review the records of these two corporations is hereby respectfully denied and refused.

Sincerely,

FLORA M. SOUZA,
President.

All right. They felt there was some intercompany transactions so they wanted to look at title XVIII records for Home Kare. They were told, "You can't do that; you only have jurisdiction over XIX and XX." So we got fed up with the whole thing and conducted our own investigation.

Senator CHURCH. What about the beauty shop?

What about the beauty shop? That is not connected with medical care at all. I don't know of any Federal program that covers this beauty shop. Do you know about it?

How did the beauty shop expenses get charged to the Government through the medicare program?

Mr. MARKIN. I gave you the one example of the furniture. The Showcase—the beauty shop—bought the furniture at wholesale, sold it to Home Kare at close to retail and came out with a substantial profit. That is one example.

Then we have a situation when Mrs. Souza first wanted to get this corporation—The Showcase—going, and started by employing a beautician by the name of Kaye Bradley and paid her by Home Kare checks. Now when this was brought to the attention of the Home Kare people they said that she had been paid a total of about $8,500 of which they said about $5,500 of it was a mistake and the other approximately $3,000 was for training home health aides in proper hair care.

Senator CHURCH. For proper hair care?

Mr. MARKIN. Yes; health care aides were supposedly trained in proper hair care.

Senator CHURCH. And $5,500 was just an oversight, a mistake?

Mr. MARKIN. Yes; that is what they said. But all the $8,500 in checks were on Home Kare checks.

I would like to enter Ms. Bradley's statement into the record at this point.[1]

Senator CHURCH. How was that then billed to the Government, under what program?

Mr. MARKIN. It was under title XVIII, medicare program.

Senator CHURCH. But when medicare was charged by Home Kare, how was it charged? What was the description of the charge?

Mr. MARKIN. The description would have just been salaries for Kaye Bradley and it would have looked like she was a Home Kare employee.

Senator CHURCH. Now, Mr. Crane.

Representative CRANE. Thank you, Mr. Chairman.

Getting back to the point that Senator Domenici raised to hold these unit costs down to $18.50, obviously there was overprescription of Home Kare treatment and you suggested earlier that the physician has the responsibility for prescribing the number of calls.

Mr. MARKIN. That is correct.

Representative CRANE. And that a physician would himself know that he was overprescribing. Do you have any evidence of physicians working in collusion with Mrs. Souza here in this operation?

Mr. MARKIN. Well, I don't know if it is collusion but I know that there are several physicians on her payroll that are called medical directors. Now these medical directors get anywhere from $200 to $400 a month, month after month after month, for being medical director. Now I am told that these medical directors may spend 2 hours a month and get reimbursed $400. Now the other home health agencies that I have spoken with said yes, we have a medical director but he reviews our patient records on a quarterly basis and is reimbursed for a few

[1] See appendix 5, p. 973.

hours of reviewing those records at a cost of $37.50 per hour and he does this four times a year, not $400 a month, month after month.

Representative CRANE. Are the physicians' recommendations coming from medical directors associated with Home Kare or are there other physicians involved?

Mr. MARKIN. Some are coming from the medical directors and some are coming from the partners who are also doctors in partnership in the medical building, at least one of the partners.

Representative CRANE. Do you know the names of all of these people?

Mr. MARKIN. Yes; I do. We could put it in the record. We could dig it out of our documents.

Representative CRANE. Thank you.

I have no further questions, Mr. Chairman.

Senator DOMENICI. Mr. Chairman.

Senator CHURCH. Yes. We have a live quorum on. It is 12 o'clock and I am going to recognize Senator Domenici. I want the other members to know we are behind and had planned that we would be able to complete this hearing tomorrow morning. It is obvious that we will not. We have a surprise witness in addition to the fact that we are running well behind schedule. So the committee will adjourn after Mr. Domenici's question and we will return this afternoon in this room at 1 o'clock and we will continue the hearing from 1 until 3 and then take it up again in the morning at 10 o'clock.

I just wanted the members to know we will have a brief lunch period, just 1 hour, and be back again at 1 o'clock this afternoon.

Now, Senator Domenici.

Senator DOMENICI. To follow up on Congressman Crane's question, I take it you find no regulation that prohibits a prescribing doctor from having a proprietary interest in any of these corporations that you have described here.

Mr. MARKIN. That is right. There are many doctors throughout the country that are starting their own agencies and there are also many doctors that have had agencies for several years.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator CHURCH. Very well. The hearing will take up at 1 o'clock this afternoon.

[Whereupon, at 12 noon the committee recessed, to reconvene at 1 p.m. in room 4200, Dirksen Senate Office Building.]

AFTER RECESS

Senator CHURCH. The hearing will come to order, please.

I want to apologize for the confusion that may have been caused by the sudden change of quarters, but we learned that this room would be available to us throughout the afternoon and we may need most of it in order to complete our work for the day.

First of all, without objection, the audit and the investigative memorandum[1] and the sworn affidavits that have been collected by Mr. Markin, our witness this morning, in connection with his investigative work will be incorporated in the record.[1]

[1] See appendix 1, p. 919.

Our next witnesses are Jacquelyn R. Harvey and Frederick Keeley. If you will both come forward. Miss Jacquelyn Harvey and Mr. Frederick Keeley are former employees of Home Kare, Inc., San Jose.

You will both stand and take the oath.

Do you both solemnly swear that all the testimony you will give in this proceeding will be the truth, the whole truth and nothing but the truth, so help you God?

TESTIMONY OF FREDERICK KEELEY, FORMER EMPLOYEE OF HOME KARE, INC.

Mr. KEELEY. I do.

Miss HARVEY. I do.

Senator CHURCH. Mr. Halamandaris, you will commence the questioning, please.

Mr. HALAMANDARIS. Mr. Keeley, were you an employee of Mrs. Flora Souza and, if so, during what period of time?

[Subpenas issued to Mr. Keeley and Miss Harvey follow:]

UNITED STATES OF AMERICA

Congress of the United States

To Frederick J. Keeley, 684 Morse Street, San Jose, California 95126

, **Greeting:**

Pursuant *to lawful authority, YOU ARE HEREBY COMMANDED to appear before the* Special *Committee on* Aging *of the Senate of the United States, on* March 8, 1977, *at* 10 *o'clock* a.m., *at their committee room* 1202 Dirksen Senate Office Building, Washington, D.C. 20510, *then and there to testify what you may know relative to the subject matters under consideration by said committee.*

Your activities as Special Assistant to the President of Home Kare, Inc. and any other duties for any corporation owned or operated by Flora M. Souza.

Hereof fail not, *as you will answer your default under the pains and penalties in such cases made and provided.*

To Frank Klein, United States Marshall

to serve and return.

Given *under my hand, by order of the committee, this* First *day of* March, *in the year of our Lord one thousand nine hundred and* seventy-seven

Frank Church

Chairman, Committee on Aging

UNITED STATES OF AMERICA

Congress of the United States

To Jacquelyn Harvey, 1589 Brookvale Drive, Apartment #3, San Jose, California 95129 OR Foothill Junior College, Administration Building, Rm. 4B Financial Aid Office, Los Altos Hills, CA 94022, **Greeting:**

Pursuant *to lawful authority, YOU ARE HEREBY COMMANDED to appear before the* Special *Committee on* Aging *of the Senate of the United States, on* March 8, 1977, *at* 10 *o'clock* a.m., *at their committee room* 1202 Dirksen Senate Office Building, Washington, D.C. 20510, *then and there to testify what you may know relative to the subject matters under consideration by said committee.*

Your activities as bookkeeper for Home Kare, Inc., formerly of 256 East Hamilton Avenue, Campbell, California and your employment with any other firm or corporation owned or operated by Flora M. Souza.

Hereof fail not, *as you will answer your default under the pains and penalties in such cases made and provided.*

To Frank Klein, United States Marshall *to serve and return.*

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Frank Church

Chairman, Committee on Aging

Mr. KEELEY. I was an employee of Home Kare, Inc., from approximately September of 1974 through approximately the end of January of 1976.

Mr. HALAMANDARIS. How much of your time did you spend working for the entity, Home Kare, Inc.?

Mr. KEELEY. I would estimate that the duties that I performed which were for Home Kare, Inc., would be about 30 to 40 percent of my time.

Mr. HALAMANDARIS. What did you do with the remaining 70 percent of your time?

Mr. KEELEY. The remaining 60 to 70 percent of my time was spent working in two basic areas: One was on behalf of Unicare, Inc., where my duties were essentially to author the nonfiscal elements of homemaker/chore bids. To perform public relations work; and also to begin to organize a legislative program for the Health Care Legislative Council, Inc.

Mr. HALAMANDARIS. That Health Care Legislative Council would be the beginnings of a lobbying organization, at least that is the way it has been characterized this morning. Would you agree with that? It was an effort to set up a lobbying organization?

Mr. KEELEY. Yes; I agree with that.

Mr. HALAMANDARIS. Could you tell us if 100 percent of your salary came from Home Kare and thus was charged to medicare?

Mr. KEELEY. The only paychecks that I received were from Home Kare, Inc., and to my knowledge my salary and related expenses were charged to Home Kare.

Mr. HALAMANDARIS. Mr. Keeley, you provided the committee with two sworn affidavits. I want to send copies down to you and have you identify these affidavits if we may have them entered in the record at this point.

[The affidavits follow:]

AFFIDAVIT

I, Fred J. Keeley, being duly sworn, do freely and voluntarily state under oath that the following facts are true to the best of my knowledge:

1. That from September, 1973 to December, 1973, and from September, 1974 to February 4, 1976, I was employed as Special Assistant to the President by Home Kare, Inc., a licensed Medicare and Medicaid home health agency in the State of California.

2. That in the above-mentioned position, I was responsible for a broad range of public relations and administrative duties.

3. That one of these duties was to remain informed of legislative and regulatory activities on the State and Federal levels concerning home health or homemaker services. This included monitoring the progress of specific regulations and reviewing the Federal Register, the Commerce Business Daily, the California State Senate Daily Journal, and the California State Assembly Daily Journal.

4. That one of the above-mentioned duties was to advocate on behalf of Home Kare, Inc. and its President, Flora M. Souza. In this capacity, I appeared before a joint hearing of the United States Senate Special Committee on Aging's Subcommittee on Long-Term Care and the Subcommittee on Health and Long-Term Care of the House Select Committee on Aging in Washington, D.C. on October 28, 1975.

5. That one of the above-mentioned duties was to prepare the non-fiscal elements of proposals for bids on county homemaker contracts throughout the State of California. These proposals were submitted pursuant to the provisions of A.B. 1792 by Unicare, Inc., a California corporation licensed to provide home health care, and owned by Flora M. Souza.

6. That one of the above-mentioned duties was to represent the interests of Unicare, Inc. before various county Boards of Supervisors throughout the State of California.

7. That one of the above-mentioned duties was to organize the California Association-Providers of In-Home Health Services, Inc., the purpose of which was "to initiate, sponsor, promote and carry out plans, policies and activities that will tend to further the prosperity, development and education of all providers of in-home services." One of the incorporating directors of said corporation was Flora M. Souza.

8. That the California Association-Providers of In-Home Health Services, Inc. was formed for three primary reasons. The first of these reasons was that Medicare (Title XVIII) provided no reimbursement for lobbying fees incurred by home health providers. The second of these reasons was to effect the passage of legislation favorable to home health providers including Home Kare, Inc. The third of these reasons centered on the California Association for Health Services at Home and that body's rejection of Flora M. Souza in her attempt to gain election to their board.

9. That the organizational meeting for the California Association-Providers of In-Home Health Services, Inc. was held in or about September of 1975. Some of the people present at said meeting, in addition to myself, were: Flora M. Souza and David R. Sylva, two of the incorporators; Peter C. Gottheiner of California Coordinated Health Care and Health Help, Inc.; Bob Lukas; Deke Hagenburger and Bruce Magyar of Homemakers Upjohn; Larry Bertolucci, a physical therapist from Sacramento; and Lewis and Edward Lackner of the Home Kare, Inc. Advisory Board.

10. That this organizational meeting for the California Association-Providers of In-Home Health Services, Inc. was represented as a meeting of the Home Kare, Inc. Advisory Board, and that the costs incurred were claimed by Home Kare, Inc. to Medicare.

11. That the members of the Home Kare, Inc. Advisory Board were told that the above-mentioned organizational meeting was to be a meeting of the Advisory Board. However, the only subject under discussion at this meeting was the California Association-Providers of In-Home Health Services, Inc.

12. That other costs incurred by the California Association-Providers of In-Home Health Services, Inc. were claimed by Home Kare, Inc. to Medicare, including travel, postage, stationery and other supplies, and my salary.

13. That the California Association-Providers of In-Home Health Services, Inc. incurred approximately ten thousand dollars ($10,000) in expenses which were claimed by Home Kare, Inc. and charged to Medicare.

14. That the California Association-Providers of In-Home Health Services, Inc. received approvimately four hundred dollars ($400) in contributions or dues from agencies intending to join said Association.

15. That in or about December of 1975, I was instructed by Flora M. Souza to manufacture expenses of the Association in order that contributing members might be sent a financial statement. I refused on the grounds that, to my knowledge, these expenses had already been charged to Home Kare, Inc. Flora M. Souza then instructed another employee of Home Kare, Inc. to manufacture these expenses, and this was subsequently done.

16. That in or about March or April of 1975, I assisted in the drafting of legislation which was subsequently introduced, enacted, and chaptered as § 12302.1 of the Welfare and Institutions Code of the State of California.

17. That at some time prior to the introduction of the above-mentioned legislation, I informed Flora M. Souza of those sections of Proposition 9, Fair Political Practices Act of 1974 of the State of California, relative to lobbying activities. Specifically, I informed her that I would have to register as a lobbyist as soon as I engaged in any activity which constituted work in support of or in opposition to any piece of legislation, and that at such time she would be required to register as the employer of a lobbyist. Upon being so informed, Flora M. Souza told me to make certain I told her when that time for registration arrived.

18. That following the introduction of the above-mentioned piece of legislation relative to Title XX contracts, I informed Flora M. Souza that I was then required to register as a lobbyist and that she was then required to register as the employer of a lobbyist.

19. That Flora M. Souza refused to so register and refused to allow me to so register because Medicare would not reimburse my employer, Home Kare, Inc., for lobbying expenses.

20. That as a result, in part, of Flora M. Souza's above-mentioned refusals to register as the employer of a lobbyist and to allow me to register as a lobbyist,

both such registrations being required by State law under Proposition 9, Fair Political Practices Act of 1974 of the State of California, I ultimately left the employment of Home Kare, Inc.

21. That by my best estimation, forty percent (40%) of my time was expended in the interests of Home Kare, Inc., forty percent (40%) of my time was expended in the interests of Unicare, Inc., and twenty percent (20%) of my time was expended in legislative-related research work which is exempt from the filing requirements of Proposition 9, Fair Political Practices Act of 1974 of the State of California.

22. That despite the expenditure of my time as delineated above, my salary was paid entirely by Home Kare, Inc.

[SEAL] FRED J. KEELEY.

Subscribed and sworn to before me this 22d day of December, 1976. Mildred May Lowe, notary public. My commission expires October 4, 1980.

AFFIDAVIT

I, Fred J. Keeley, being duly sworn, do freely and voluntarily state under oath that the following facts are true to the best of my knowledge:

1. That from September, 1973 to December, 1973, and from September, 1974 to February 4, 1976. I was employed as Special Assistant to the President by Home Kare, Inc., a licensed Medicare and Medicaid home health agency in the State of California.

2. That in the position above-mentioned, I had direct associations with principals of that corporation, including its President, Flora M. Souza, and its Controller, Jack Stewart.

3. That prior to his employment with Flora M. Souza, Jack Stewart worked for the Traveler's Insurance Company as a senior Medicare auditor.

4. That in his capacity with the Traveler's, Jack Stewart conducted at least one audit of Home Kare, Inc.

5. That in or about September, 1973, Jack Stewart came to the office of Home Kare, Inc. for purpose of auditing said corporation, and that I was present in the office at that time.

6. That in or about this same period, September, 1973, on at least one occasion Flora M. Souza took Jack Stewart to dinner at Hugo's, a restaurant at the San Jose Hyatt House.

7. That from January, 1974 through September, 1974, I left Home Kare, Inc. for personal and professional reasons.

8. That during the above-mentioned period, January, 1974 through September, 1974, Jack Stewart came to work for Home Kare, Inc. as Controller of said corporation.

9. That I subsequently returned to work for Home Kare, Inc. in or about September, 1974.

10. That in December, 1975, a Home Kare, Inc. office Christmas party was held which was attended by Jack Stewart and myself.

11. That a collection was taken from Home Kare, Inc. employees and friends for the purpose of purchasing a Christmas present for Flora M. Souza.

12. That this collection among employees and friends produced approximately two hundred dollars ($200).

13. That approximately an additional seven hundred dollars ($700) was needed to purchase the gift planned for Flora M. Souza. This gift was a jade necklace with matching earrings in a gold setting.

14. That at the above-mentioned party, and in my presence, Jack Stewart produced a blank Home Kare, Inc. expense sheet, and filled said sheet with manufactured expenses for travel and entertainment totalling approximately seven hundred dollars ($700).

15. That at the above-mentioned party, and in my presence, an amount of approximately nine hundred dollars ($900), some of which was in cash, was given by Jack Stewart to Ralph Zezza of the Paul Revere Life Insurance Company.

16. That Ralph Zezza subsequently purchased the above-mentioned jewelry at Fox's, a jewelry store in the St. Francis Hotel in San Francisco.

FRED J. KEELEY.

Subscribed and sworn to before me this 22nd day of December, 1976.

MILDRED MAY LOWE, Notary Public.

Mr. HALAMANDARIS. In the first sworn statement that you provided the committee you note that you were present on an occasion in which

Jack Stewart manufactured, to use your words, dummy expense receipts in the amount of $700 and that this amount was matched with approximately $200 in cash for the purchase of a gold necklace and earring set for Flora Souza. Is that the thrust of your affidavit and do you reconfirm it here today?

Mr. KEELEY. Yes; I do.

Mr. HALAMANDARIS. The second affidavit you provided to this committee relates to your activities on behalf of the Health Care Legislative Council, Inc., which you have identified as a lobbying organization. Were you registered as a lobbyist with the State of California?

Mr. KEELEY. No, I was not. I might state for the record that under the provisions of the Fair Political Practices Act, which is a State statute in California, I was not required to file as a lobbyist until I met certain terms and conditions and those were basically an amount of time spent directly in relationship to legislation.

Mr. HALAMANDARIS. Did you ask to file as a lobbyist? Did you tell Mrs. Souza of your desire to file as a lobbyist?

Mr. KEELEY. Yes; at a certain point in time I advised Souza that I felt that the duties that I was performing on behalf of the Health Care Legislative Council, Inc., were defined as lobbying by the Fair Political Practices Act and I advised her so and I prepared my lobbyist registration forms. It is a requirement of that act not only that the lobbyist file forms with the fair political practices commission, but also that the employer of the lobbyist do so.

Mr. HALAMANDARIS. Were you ever instructed to manufacture dummy expense receipts on behalf of the Health Care Legislative Council and, if so, by whom, when, and where?

Mr. KEELEY. I would rather use my own words for that. I was asked by Mrs. Souza on an occasion to put together some expenses for the Health Care Legislative Council, Inc. Due to the fact that I was not a bookkeeper nor a fiscal officer of that or any other corporation, I declined to put together any fiscal expenses because I knew of none. I knew of no list I could put together and I referred her to Mr. Jack Stewart who was the fiscal officer and who took care of expenses and that kind of thing.

Mr. HALAMANDARIS. Are you suggesting that Mr. Stewart padded expenses not only occasionally but did so on a continuing basis?

Mr. KEELEY. Yes.

Mr. HALAMANDARIS. Does Mrs. Souza's corporate structure allow her to submit artificially low bids for purposes of Unicare, the title XX agency, and, if so, can you recall for us the opening of the San Luis Obispo office and how that relates to the question I just asked?

Mr. KEELEY. Yes; I can. The method used, I believe, was described by Mr. Markin this morning. It was essentially that many of the costs of the homemaker program can be charged to a medicare corporation by doing the following: Unicare which is a title XX provider would submit a bid. In many instances the bid would be low and part of the reason it was low was that rental of an office, office furniture, supplies, et cetera, could be charged to the title 18 corporation. When you opened the title XX office you would also have a Home Kare home health agency office in the same building in the same space and it was possible to allocate some of Unicare's cost to Home Kare Corp.

Mr. HALAMANDARIS. Mr. Keeley, two more questions.

Did you contact the Bureau of Health Insurance with respect to practices of Home Kare and was the confidentiality that you expected in that context breached in any way?

Mr. KEELEY. The Bureau of Health Insurance in San Francisco contacted me in approximately September of 1976, and at that time they asked me if I would be willing to discuss my former employment with Home Kare and related corporations. I indicated that I would. I said, however, that I would be inclined to go to their office in San Francisco and respond to interrogatories either verbally or written.

However, since I am not a man of means and did not want to be embroiled in any litigation of any kind, I asked them if they would protect me as a source and the confidentiality of the information, I would disclose to them. They indicated that there would be absolutely no problem with that and, in my opinion, they blatantly violated that trust.

Mr. HALAMANDARIS. In what way, sir?

Mr. KEELEY. Well, I did have a meeting with the Bureau of Health Insurance in the San Francisco office and made it very clear to them again the terms and conditions under which I would be willing to discuss Home Kare and my employment there.

Approximately 1 or 2 weeks therefter I was representing a client in Fresno County and I met Mr. Jack Stewart there and he mentioned to me that he had information that I had spoken with the Bureau of Health Insurance in San Francisco. I neither confirmed nor denied that. He then said he understood from the Bureau of Health Insurance that I had requested that the only terms and conditions under which I would speak to them was if I did it through interrogatories. I am just not sure that he could have guessed that and it seems to me that there must have been someone in the Bureau of Health Insurance who disclosed that information.

Mr. HALAMANDARIS. My last question, Mr. Keeley, as a provider of someone who has worked with Home Kare and with other corporations can you tell me what your view is of the fiscal integrity of the medicare, medicaid, and title XX programs? Can you tell me what your ranking might be for the susceptibility to fraud and abuse for these three programs?

Mr. KEELEY. My ranking would be as follows: That the title XX homemaker program is the most susceptible to fraud and abuse in that that program is totally lacking in regulatory or guideline control or statutory authority on the part of the Government or any agency of government to really get an idea about where money is being spent and the cost of programs. There are also no controls in the title XX program relative to the quality of care being provided and, therefore, the care and intensity of it, and so forth, change not only from corporation to corporation but can also change from State to State and from county to county, and even from case to case.

The second most likely or susceptible to fraud and abuse, would be the medicare program in that it is a program which has virtually no incentives built into it, in my opinion, for containing costs or controlling costs. That is because it is a reasonable cost reimbursement system which does not have fee for services or a schedule of fees that are uniform and, finally, because of the fiscal inter-

mediary structure which, in my opinion, has absolutely no incentive for the fiscal intermediary to act in the best interests of the taxpaying public or the consuming public in controlling costs. This is so because the fiscal intermediary is an entity whose livelihood is dependent upon increasing the volume of business or allowing an increase in the volume of business and also allowing the increase in costs. I think that is absolutely contrary to fiscal responsibility and cost.

The least susceptible, I would claim, would be the medicaid program. I am sure this committee must know more about that than I do.

Mr. HALAMANDARIS. Thank you, Mr. Keeley.

Senator CHURCH. Mr. Keeley, you have indicated that title XX under social security relating to social services is probably the most susceptible to inflated costs and you have given reasons that are certainly supporting of that conclusion.

As I understand it, 75 percent of the money for the program is Federal, 25 percent of the money is State, but the actual administration of the program—that is, the decision as to what agency will get the contract for providing services in a given county—is made by the county government. Is that your understanding?

Mr. KEELEY. In California, Senator, that is true.

Senator CHURCH. I am speaking of California.

Mr. KEELEY. Yes.

Senator CHURCH. Does this not mean that the actual government that makes the decision and awards the contract of the agency which is to provide the services within the county has no real fiscal interest in whether or not the program is honestly managed and that costs are kept under reasonable control; that is to say, no part of the county budget is involved in the program; isn't that correct?

Mr. KEELEY. I would concur with that, Senator, and I believe that the only reason that a member of a board of supervisors would be inclined to control costs would be the most indirect and political of motives in that constituents in the county don't draw distinctions between local money and Federal money. Further, constituents would be somewhat upset if a county supervisor spent any money irresponsibly but, nonetheless, I would confirm your contention, Senator.

Senator CHURCH. So we have a system where the county supervisors have little or no reason to police the system. It is done if the county money is involved. So the question then becomes, does the State with 25 percent State money involved administer or police the system and, as far as we can tell, the State of California does not. At least until our investigation began to reveal these practices I am unaware of the State of California showing much interest in this question.

When it comes to the Federal Government that puts up 75 percent of the money, I think the statistics are as damning as they are revealing of the near total neglect on the part of the Federal Government. We have three different programs now that we have been considering this morning and this afternoon. One is the title XX program, one is the medicaid program, and the third is the medicare program.

In connection with home health agencies, which is the subject of this hearing, our figures show that only five home health agencies have been referred to the Department of Justice for prosecution since the beginning of the medicare program. I am speaking nationwide, while

some $245 million was paid to home health agencies by medicare this past year alone. There has only been one home health agency participating in the medicaid program that has been audited by the Health, Education, and Welfare Audit Agency over the past 5 years.

So, obviously, the Federal Government is not policing the program. Nobody is policing the program at any level and the agency at the end of the pipeline is motivated to extract as much from the Government as possible to maximize profit and we have seen some of the ways in which profit was maximized by this particular agency.

Now, the remedy that is talked about is to establish the responsibility and the Inspector General at the Department of Health, Education, and Welfare who will use, I understand, the present auditors that work with the Department to attempt to more effectively police the administration of these multibillion dollar medical care programs. He will not only be asked to supervise and to police these three programs, but some 380 other programs that are presently administered by the Department of Health, Education, and Welfare and I say on the surface that can't be done.

Commonsense should make it clear that we can't effectively police these programs from Washington and no one Inspector General using a work force that has been in place and must have had other responsibilities will have the capability of effectively policing such vast programs as these and the hundreds of others that are administered through the Department of Health, Education, and Welfare.

You are not an expert witness on the subject. I am not asking you to comment. I merely think that your testimony tends to point up the nature of the problem. No Government at any level involved in effective policing of the vast expenditures and the agency at the end motivated only to increase those expenditures in every possible way and engaging in many fraudulent and dishonest practices to do it.

So I really think that we are going to have to think beyond the dimensions. I think we will have to think beyond the dimensions of an inspector general and investigators in Washington and analyze the motivations within the system. They are all working against a program that can be administered at reasonable costs and where honest practices will be the rule because it is structured that way and I just think we are at the beginning of our work.

Well, I have a few questions I would like to ask you, Mr. Keeley.

How much were you paid by the corporation for which you worked, the Home Kare Corp.?

Mr. KEELEY. I was paid approximately $12,000 annually.

Senator CHURCH. And you have testified that between 60 and 70 percent of your time was spent on outside activities unrelated to Home Kare?

Mr. KEELEY. That is true, yes.

Senator CHURCH. Yet all your money came from Home Kare?

Mr. KEELEY. Yes.

Senator CHURCH. What work were you doing for Home Kare when you worked for that corporation?

Mr. KEELEY. When I worked for Home Kare I performed basically two tasks. One was to engage in public relations activities on behalf of the corporation and the other was to serve as an administrative assistant, as it were, to the president of the corporation in terms

of preparing administrative directives, assisting in the drafting of corporate policy, that kind of task.

Senator CHURCH. What need does a home care corporation, which is billing the Government for medical care, have for a public relations employee? Do you think that public relations work is reasonably related to providing medical care for the poor and aged?

Mr. KEELEY. I am not a lawyer, Senator. However, I would say that it is probably not. I would give you the justification that was given to me for my performance of those duties. It was that the corporation functions on referrals from physicians and also from hospital referrals and that it was essential to the increased volume of corporate business to make sure that when discharged planning was done or when a physician was inclined to refer a patient that the patient would be referred to Home Kare, Inc.

Senator CHURCH. You have testified that at a Christmas party in 1975 Jack Stewart made out a check on Home Kare for $700 to which $200 in cash was added or made out a dummy expense receipt and that this money was given to Ralph Zezza to purchase a $900 jade necklace and earring set.

Now, for whom was the necklace and earring set purchased? Whose Christmas present was it to be?

Mr. KEELEY. Flora Souza.

Senator CHURCH. The present was to go to Mrs. Souza, the owner of the company?

Mr. KEELEY. Yes.

Senator CHURCH. This is a case where at least the Government didn't pay it all, just $700 or the $900 was paid by medicare. The $200, was that actually raised at the Christmas party?

Mr. KEELEY. Yes; it was, Senator.

Senator CHURCH. That was the present?

Mr. KEELEY. Yes, Senator.

Senator CHURCH. Which the taxpayers didn't take care of.

Now, in connection with your lobbying activities you have testified that you were not registered and that you thought you should be under California law. Since you knew you were being paid by Home Kare, that 70 percent of your work was not being done for Home Kare, why didn't you ever go to Mrs. Souza and say: "Look, there is something wrong with this arrangement. I am getting paid by Home Kare and spending 70 percent of my time working for another corporation. Incidentally, what does lobbying activity have to do with the reasonable cost of medical care for which the Government is being charged from which my salary is being drawn?"

You never went to her and asked her just why this curious arrangement?

Mr. KEELEY. To answer the second part of the question first, Senator, prior to being employed by Home Kare, Inc., I had no experience in terms of medicare, medicaid, et cetera. When I was hired, certain duties and responsibilities were outlined to me and I began performing them. At some point in my employment I did, in fact, go to Mrs. Souza and to other persons who were my superiors in that corporation and advise them of my belief that my lobbying activities ought to be registered with the fair political practices commission.

To respond to the first part of the question regarding allocation of my work time versus the source of my income, allow me to say two things on that.

First, the corporations are practically indistinguishable when you are working there. That is not to say I didn't know what I was doing for each corporation. I certainly did. However, I was not aware then and I am not aware now that my taking salary from Home Kare and performing work for related, closely held corporations was violating the law on my part.

Senator CHURCH. You never had any doubts about it?

Mr. KEELEY. Yes; I did, surely.

Senator CHURCH. Were you successful in getting any legislation passed which was beneficial to Home Kare?

Mr. KEELEY. I feel that I was, yes.

Senator CHURCH. What was that legislation?

Mr. KEELEY. It was a piece of legislation in California. It was AB–1792 which added a section to the welfare institutions code. It was a piece of legislation which essentially began to put bidding guidelines together and bidding requirements and contract requirements for the title XX homemaker chore program. It was a piece of legislation which I think began to speak to some of the problems that existed and that still exist in that homemaker chore program in California. It was not a piece of legislation that was wholeheartedly endorsed by my employer, but they did feel it was a piece of legislation which would be a beginning in terms of placing decent regulatory controls on that program. Their interest therein, I believe, if I can speculate, was that they were not afraid of regulatory control because they still felt that they had a bidding or competitive edge, and the reasons for having that edge I feel have been described adequately.

[Memorandum submitted by Mr. Keeley follows:]

To: Flora M. Souza.
From: Fred Keeley.
Re: Homemaker/chore legislation.
Date: April 14, 1975.

Friday, Leona Egeland and Barb Nicoara (Leona's Administrative Assistant) and I met for two and a half hours to discuss and revise the homemaker/chore legislation which we prepared.

During the discussion the following changes were suggested by them:

(1) the provision that a provider must be a corporation in order to be a qualified bidder was not well received by them because they felt that it "restricted competition and entry into the market." I argued that it allowed the state to license an identifiable entity instead of having to license several individuals. It was not resolved at the meeting whether or not to amend that section out of the legislation.

(2) along with the provision that providers must be licensed by the state, there was the problem that the state must also have the authority to revoke a license. The problems here were: what would constitute a revocation? What would be the terms of the license? what would be the fee? None of these were resolved either.

(3) one of Leona's staff people suggested that a provision be amended into the bill which would require that a certain percentage of each dollar which is expended for homemaker/chore services be used for direct recipient services (a profit control measure). This was not resolved either.

The bill has been referred to the consultant for the Assembly Health Committee, Ken Wagstaff. He will review it and make some comments. He will want some help from us to get the bill into shape for introduction within thirty days.

1. Met with Senator George Moscone and his staff members Jay Isen and Don Solem regarding two matters 1) AB 244, and 2) the San Francisco homemaker situation.

Senator Moscone explained that AB 244 was necessary because the state had exhausted its funds for homemaker contracts throughout the state. Moscone indicated that the bill should not have any trouble in committee or on the floor.

2, Moscone's staff rep. in San Francisco, Jay Isen said that he would look into the contract situation and try to have the Social Services Department in that county open up their bidding process.

3. Met with Leona Egeland, Assemblywoman from the 24th District, regarding AB 244 and the LA, SF and Santa Cruz homemaker contracting situation. Leona will support AB 244 and she will sponsor legislation which would require competitive bidding for homemaker contracts. Leona would like to meet in her district office in San Jose on Friday, January 17th to draft some legislation and to discuss the PHP programs.

4. Met with Assemblyman Barry Keene, Assemblyman from the 2nd District, regarding AB 244 and the homemaker situation described above. Assemblyman Keene, who introduced AB 244, said that we could be helpful in passing the bill by bringing it to the attention of our Santa Clara County legislative delegation and by writing lettters to every member of the legislature. Keene also said that the Governor has the ability to release $8.5 million now for homemaker contracts. Keene suggested that we write to the Governor's staff and request that the money be released under provisions of Section 10.6 of the Budget Act.

Senator CHURCH. Well, let's examine that for a minute. Was not the practical effect of the legislation to limit the title XX contracts in California to Souza and one other provider?

Mr. KEELEY. Yes; that was probably the practical effect, Senator. However, I would like to distinguish that from the intent of the legislation.

Senator CHURCH. So in California now, the largest State in the Nation, in fact a mini-nation in itself with some 22 million people, we have got just two corporate agencies providing all of the title XX home care services to the elderly. What a racket.

That is what is called a competitive bidding system and the testimony this morning makes it clear that through establishing interlocking corporations that the Federal Government can be made to pay for an arrangement which permits two agencies to monopolize all of the home services in a State of 22 million people.

Mr. Gibbons.

Representative GIBBONS. Thank you, Senator.

First let me address my questions to both of you.

I am going to start off by asking you, sir, how old are you?

Mr. KEELEY. I am 26.

Representative GIBBONS. You are 26.

I am not going to ask the lady how old she is because she is obviously much younger than you are.

What other employment had you held before coming here?

Mr. KEELEY. I had been employed managing and consulting to political campaigns. [Laughter.]

Representative GIBBONS. Let me follow that up with some questions.

First, before I go any further, let me commend both of you for cooperating with our staff and for coming here voluntarily and working with us on this. As you know, we are trying to make it possible to provide better care for people who are disabled and who need health care, so we appreciate people like you coming to help us.

Were you present when Mr. Markin testified this morning?

Mr. KEELEY. Yes; I was.

Representative GIBBONS. During his testimony did you hear anything that was inaccurate that you would like to correct at this time, either one of you?

Mr. KEELEY. I did not hear anything that was inaccurate. I might just mention one issue I did want to place on the record just in case I don't have an opportunity later——

Representative GIBBONS. Go ahead.

Mr. KEELEY. I think that one of the basic problems with the system as it now exists with respect to the relationship between a title XVIII medicare provider and a title XX provider is that you can get into a relationship where there is absolutely no incentive to make the client/patient any healthier. In fact, it is absolutely contrary, and that if this is a health care team, we ought to talk about maintaining people's health or making them better, but not to put them on a merry-go-round of federally and State funded programs. That is precisely what you have with the homemaker chore program in their relationship to home health agencies.

Aged, blind, and disabled persons may not be in need of medical service. They need a social service at that point. There is no incentive to make them any better if you have a home health agency sitting in the wings which is also a profitmaking corporation. Instead of getting $3.50 for providing service, you might be able to get $18 and $20 for that person. You put them on that program, you then use up their benefits under medicare A and B plans, get them back on the social service program and they never get out of the system.

Probably the biggest sin I have committed in the past couple years is just wanting a salary, et cetera, but I feel it is incumbent upon me at this point to cleanse my soul by saying that this is the sin I see in this whole thing.

You have people that are supposed to be providing health care. They put helpless persons on a merry-go-round and never let them off. That is not health, that is something else.

Representative GIBBONS. Jackie, do you have anything to add? You have been so quiet over there.

Miss HARVEY. No.

Senator CHURCH. We have not given Jackie a chance to testify yet.

Representative GIBBONS. Let me go on then with Mr. Keeley.

How long did you work for Home Kare?

Mr. KEELEY. About 1½ years.

Representative GIBBONS. What was your relationship with the doctors in the discharging hospital? I didn't understand how that worked.

Mr. KEELEY. My relationship was virtually none. I think what I was alluding to earlier was the question Senator Church raised about the need for public relations and I think, without repeating myself, that there was a need to raise the visibility of the corporation in the eyes of the referring physician population wherefrom patients were derived.

Representative GIBBONS. What kind of activity did the corporation carry on to raise visibility? What did they do? Did they follow your advice?

What did the corporation do to raise their visibility as far as the doctors were concerned?

Mr. KEELEY. The things that I was involved in were the publication of a newsletter, the publication of public relations material, written material, that sort of activity. Booklets explaining the variety of services and the scope of coverage that were offered by Home Kare. They engaged in some other activities regarding what could loosely be placed under the category of public relations which involved rather lavish Christmas parties and those kinds of activities where the referring physician population were invited and entertained.

Representative GIBBONS. That is all the questions I have, Mr. Chairman.

Senator CHURCH. I wonder if you could tell us whether or not Home Kare, Inc., ever paid referral fees to physicians to send them patients?

Mr. KEELEY. I have no knowledge of that.

Senator CHURCH. Mr. Jones.

Representative JONES. I would like to ask a couple of questions of interest.

I still don't understand from this morning's testimony how Home Kare, which is the central corporate organization, could charge off all of the expenses or the major portion of the expenses of all the satellite corporations and still come under a charges-per-patient-per-visit of all the other agencies in California for title XVIII care.

Do you understand my question?

Mr. KEELEY. I understand the question.

Representative JONES. Do you have any knowledge of how they did that?

Mr. KEELEY. I can speculate on what was given because I was affiliated with the corporation for 1½ years.

First of all, I would not concur with your premise that they kept their costs in line with those of same or similar corporations in California.

Representative JONES. I am quoting what Mr. Markin testified to this morning following his audit. He said that the average patient care cost was $18.50 under title XVIII and that was under any other private or public agency in California.

Mr. KEELEY. This is possible because of sufficient volume. You can certainly understand that. If you have 100,000 visits a year, you can put a lot of people on salary and incur a great many expenses and have sizeable overhead, et cetera, and that will not reflect substantially in the cost-per-visit figure because it may be reflected by only 1 or 2 or 3 cents in the billing rate which may be attributable to administrative cost, et cetera. You have a volume of visits.

Representative JONES. It seems to me under home health care you are going to have some very stringent fixed costs and the only way I can see they could do it is by charging for 30 visits and making 10 visits. Do you have any knowledge of that factor?

Mr. KEELEY. I have no knowledge.

Representative JONES. Let me just ask one other question. You said that we should not put these people on the merry-go-round, that they ought to have their health maintained or improved. How would you suggest we change medicare and medicaid laws to measure whether

or not they are maintaining their health, improving it or what? Do you have any suggestions for changing the law?

Mr. KEELEY. I think the first thing you have to do is either radically amend or eliminate the fiscal intermediary systems which I think is a disincentive to controlling costs and has virtually nothing to do with quality of care. I think the fiscal intermediary system is an absolute bogus on the face of it and I would say that would be the first thing.

Representative JONES. The alternative would be stiffer penalties on the fiscal intermediary and greater auditing on the intermediary audit? Would that be practical?

Mr. KEELEY. It sounds like a duplication to me, but I am not a legislator.

Representative JONES. You are somebody that has been in the field and has done quite well at it.

Mr. KEELEY. It sounds like an alternative, sir.

Representative JONES. All right. Go ahead.

Mr. KEELEY. The second part would be to insist that the title XX homemaker chore program be cleaned up and not just in California but nationwide. It is one of the most atrocious systems that I have ever seen and it is a trough into which the most unscrupulous interests can dip virtually without fear of recrimination, prosecution, et cetera, and I think that that program must be seriously looked at. Many people have talked about it. They have talked about it here, they have talked about it a lot of places and as Senator Church says, it is time to have something done about it.

There are no regulations on the program which have at its mercy the most helpless in our population—the aged, blind, and disabled recipients of social security.

Representative JONES. I think we are all in agreement with that.

I would ask the witness if you can furnish us with some practical suggestions.

Mr. KEELEY. I most certainly can. I would like to state for the record that for quite some time, 5 or 6 months now since I left the employment of anyone in this field, I have forwarded to the State Department of Health in California, and I would be glad to make available to the chairman of this committee copies of this, suggestions for regulatory reform on the State level in California.

Representative JONES. Thank you, Mr. Chairman.

Representative GIBBONS [presiding]. We would be delighted to have your suggestions.

Mr. Rostenkowski.

Representative ROSTENKOWSKI. How did you come to work for Home Kare, Inc.?

Mr. KEELEY. I came to work for Home Kare through meeting Mrs. Souza in a political context.

Representative ROSTENKOWSKI. The technique that Home Kare, Inc., has developed by utilizing satellite corporations; is that becoming standard operational procedure in California, or any place else in the country?

Mr. KEELEY. It is a practice that is not unique to Home Kare. I am unfamiliar with the trends in that area. I have been out of it for a while but I know it is not an unusual occurrence.

Representative ROSTENKOWSKI. Well, according to some of the testimony this morning, this has become a very competitive operation. If it is competitive, one must assume then that there are other corporations doing the same bidding. A legitimate corporation concerned with rendering a service, how can they afford to compete?

Mr. KEELEY. Competition is probably a word that is used in the home health care field in probably its most Orwellian sense. I don't believe that there is true competition in the field.

As Mr. Markin indicated earlier, there is probably no competition between a proprietary home health care organization and for example, a visiting nursing association because the primary interest of the VNA would be the health care services that they are rendering whereas in another corporate structure motivation is probably going to be profit or at least increasing the volume of your business so that the amount of money you can pay yourself and the kind of fringe benefits that go along with it are sufficiently high to live the kind of life style you want to live.

I might say that one of the ways I think you can begin to get into the issue of quality control of home health agency services, and you can get into more rational approaches to the number of agencies in a particular community or in a State, would be to require home health agencies to come under the same planning guidelines that institutional care is required to come under, through comprehensive health planning and approval, prior to the opening of an agency.

As I am sure you are aware, home health agencies are exempt from that provision, and they probably ought not to be.

Representative ROSTENKOWSKI. What concerns me is that are we just finally noticing the tip of the iceberg? If Home Kare has developed such expertise in dominating the market using these techniques despite keen competition, the legitimate provider, the legitimate individual, trying to provide services must be increasingly frustrated.

Thank you, Mr. Gibbons.

Representative GIBBONS. Any other questions?

Representative MARTIN. Yes, Mr. Chairman.

Representative GIBBONS. Mr. Martin.

Representative MARTIN. Mr. Keeley, it is one thing to explore the validity of the number of visits that have been actually made and to try to determine whether those were excessive and you have said that you are not qualified to discuss that, but there is another question to define whether these visits were actually of value. That is whether the services were rendered. So I want to talke about the qualifications a little bit.

Are employees who make these calls qualified by their training and licensing and so forth?

Mr. KEELEY. The public health nurses who I came in contact with who worked for Home Kare, Inc., were absolutely first quality.

Representative MARTIN. So you would say, that insofar as you can determine, the people that actually made those calls were giving good care?

Mr. KEELEY. I would concur with that. I would say they are some of the most dedicated, sincere people I have run into in the health care

business. That the women who provided services, and for the most part women are employed as nurses, home health aides, et cetera, that they were absolutely sincere, dedicated people who gave a lot of their time and energies to insuring that the kind of health care services they were providing were of the best quality.

Representative MARTIN. I appreciate very much your making that statement because otherwise they would be getting the rap, too, if they were just saying, Hey, how are things, and then leave and write it up as the business, because we are trying to find out how they can make all these visits and still do it at a lower price than competitors.

Let me ask a related question.

What about the principals involved. What about Mrs. Souza, for example. Is she a qualified physical therapist?

Mr. KEELEY. I believe that Mrs. Souza is a physical therapist. She wanted to become a member of APTA and I believe at that time her request was denied but I don't know what this was about.

Representative MARTIN. You were not involved with any effort pertaining to legislation which would include her as a physical therapist under the definition of the State laws?

Mr. KEELEY. I think I know what you are making reference to, Mr. Martin. I believe you are making reference to a statute in California which was passed during former Governor Reagan's administration which essentially allowed licensed physical therapists and registered physical therapists to be included in a single category in the State statute.

As you may or may not be aware, there was a distinction between LPT's and RPT's for some years and a gross over-simplification of it is to say that LPT's are those who through practical experience had acquired a sufficient amount of that experience to be a physical therapist and RPT's were basically people who had gone through the early training, through an accredited training program to become a physical therapist. I believe at one time there was some kind of restriction with respect to who could participate under medicare and medicaid in physical therapy and there was an effort in California at one time to combine those two under one statute essentially.

Representative MARTIN. By, in effect, providing the definition that would, to use your parlance, grandfather those who had been actually practicing as physical therapists under the definition so that they would be included in the same manner as registered physical therapists.

Mr. KEELEY. To my knowledge, that was the intent of the legislation.

Representative MARTIN. Did this involve the Home Kare, Inc.?

Mr. KEELEY. It happened sometime prior to my employment there and to my knowledge Mrs. Souza was an advocate of that piece of legislation. I don't know if she was a sponsor of that piece of legislation. In California they call anybody who submits a piece of legislation a legislative sponsor. I don't know if she was or not. I know that there is a picture in her Home Kare office of her and Governor Reagan and a member of the State Senate at the signing of that piece of legislation.

Representative MARTIN. Well, was she the principal beneficiary of it or were many physical therapists?

Mr. KEELEY. No; I don't think she was the primary beneficiary. I have nothing to base that on.

Representative MARTIN. You said you met Mrs. Souza in a political context.

Mr. KEELEY. Yes.

Representative MARTIN. Would you explain that to me?

Mr. KEELEY. I was doing some work in California on a political campaign and met Mrs. Souza through some very grass-roots kinds of politics. It was actually precinct work.

Representative MARTIN. What campaign was this?

Mr. KEELEY. It was a city council campaign in the city of Santa Clara.

Representative MARTIN. Who was the other person in the picture you were talking about with Governor Reagan and Mrs. Souza?

Mr. KEELEY. I believe there probably were three other people—former Governor Reagan and Mrs. Souza; a man by the name of Walter Kaitz; a State senator, Alfred Alquist.

Representative MARTIN. Is that the same Alquist that is an employee of the firm?

Mr. KEELEY. No; I believe you are referring to Mai Alquist who is the wife of the State senator.

Representative MARTIN. And Mai Alquist is an employee of the firm?

Mr. KEELEY. I do believe she was at one time. For a portion of the time that I was there she was receiving some kind of reimbursement or compensation for ostensibly assisting in the opening of an office in Sacramento.

Representative MARTIN. Do you know whether she actually performed services or performed work for that?

Mr. KEELEY. When I was around there she did, yes.

Representative MARTIN. I have no further questions, Mr. Chairman.

Representative PICKLE. Mr. Chairman, just a couple of additional questions.

Senator CHURCH. Mr. Pickle.

Representative PICKLE. Thank you, Mr. Chairman.

Just a couple of additional questions.

Why did you leave Souza's Home Kare, Inc.

Mr. KEELEY. I left the employment of Home Kare over the issue of whether or not I ought to register as a lobbyist under the Fair Political Practices Act. I maintained that I must and Mrs. Souza refused to sign the proposition 9 of the Fair Political Practices Lobbying employer's forms I presented to her. We got in what is commonly called a fight about it and I resigned.

Representative PICKLE. Then you went to work for another contractor. Did they require you to sign that political form?

Mr. KEELEY. My duties at Visiting Home Services were not of a lobbying nature.

Representative PICKLE. So you did not sign the form?

Mr. KEELEY. There was no need to.

Representative PICKLE. When you were working with Home Kare, how much salary did you draw?

Mr. KEELEY. I believe that earlier I stated I received approximately $12,000 a year.

Representative PICKLE. And that was full time, but you spent some 70 percent in other pursuits. Will you tell us how much total salary you received in these other areas?

Mr. KEELEY. I am sorry, I am not sure I understand the question.

Representative PICKLE. Your salary was $12,000 from Home Kare.

Mr. KEELEY. Yes.

Representative PICKLE. I understand that you worked on other projects at the same time you were on salary to Home Kare.

Mr. KEELEY. Right.

Representative PICKLE. Approximately how much did you make in addition?

Mr. KEELEY. I made nothing in addition.

Representative PICKLE. That was the total amount?

Mr. KEELEY. Yes.

Representative PICKLE. In your lobbying activities did you have any contact with Senator Alquist? Did you lobby with him for legislation to be passed?

Mr. KEELEY. No; I went to him on at least one occasion and asked him for some advice on the handling of a particular piece of legislation.

Representative PICKLE. Did you have any contact with Mr. Jerome Lackner who is the director of the California Department of Public Health?

Mr. KEELEY. Yes.

Representative PICKLE. Did you know that Mr. Lackner's brother was president of the company that had merged with Home Kare and that he was on the board of Home Kare?

Mr. KEELEY. Well, at the time that I was there neither Lewis nor Edward Lackner were on the board of directors of Home Kare. I am not sure they were, now, but at any rate, they were on an advisory board.

Representative PICKLE. I believe it is the advisory board. But do you know that?

Mr. KEELEY. Yes.

Representative PICKLE. Did you know that their father was also on the advisory board?

Mr. KEELEY. Dr. Lewis Lackner?

Representative PICKLE. Yes.

Mr. KEELEY. Yes.

Representative PICKLE. Do you see any conflict of interests that this family might have with two members being on the board and a brother the director of the California Department of Public Welfare?

Mr. KEELEY. During my employment with Home Kare I was not aware of any conflict of interest which existed. No, I am not aware.

I would like to state for the record that I have had several occasions to meet with Dr. Lackner and I find him to be a person of the absolute highest integrity.

Representative PICKLE. Thank you.

Senator CHURCH. Did the advisory board advise Home Kare as to how to do its business?

Mr. KEELEY. Well, in the broadest sense of that definition of those terms; yes.

Senator CHURCH. But you don't think that the members of the board were necessarily familiar with how the business was actually being run?

Mr. KEELEY. I don't believe so; no. No, I believe that the function of the advisory board was more in terms of quality of care issues more so than fiscal matters.

Senator CHURCH. Do you know whether anyone at Home Kare made political contributions to any member of the State legislature or State officer or other public office holders?

Mr. KEELEY. Yes.

Senator CHURCH. You do know that such a contribution was made?

Mr. KEELEY. I want to be sure I am answering the question that I think you are asking.

Senator CHURCH. Well, what I am asking, did the corporation for which you worked, Home Kare, ever make any political contributions, to your knowledge?

Mr. KEELEY. I don't have any knowledge of the corporation making any political contributions; no.

Senator CHURCH. Who then made political contributions?

Mr. KEELEY. Mrs. Souza made some that I am aware of.

Senator CHURCH. But you are not aware of whether or not those contributions came from the corporation funds?

Mr. KEELEY. No.

Senator CHURCH. Very well.

I think, Mr. Halamandaris, if there are no questions from the members that we ought to ask our other panelist for her testimony or you should begin your questioning and then the members may ask the questions afterwards.

Mr. HALAMANDARIS. Thank you very much.

I would like to start and ask you what was your position, please with Mrs. Souza's corporation?

TESTIMONY OF JACQUELYN R. HARVEY, FORMER EMPLOYEE OF HOME KARE, INC.

Miss HARVEY. Which one?

Mr. HALAMANDARIS. As I understand it, you were a bookkeeper paid entirely by Home Kare but you spent 50 percent of your time working for The Showcase, the beauty shop, and 50 percent doing the books for Home Kare; is that essentially accurate?

Miss HARVEY. Yes, sir, that is correct.

Mr. HALAMANDARIS. I just want to emphasize that again. You were paid 100 percent with Home Kare funds?

Miss HARVEY. No, sir, I was not.

Mr. HALAMANDARIS. Maybe you better describe that then.

Miss HARVEY. All right. Let me start back. I was employed from February 1975 to June, I believe, 1976, and for the first year I was receiving salary from Home Kare doing accounts payable for the Home Kare, Inc., along with expense checks and whatever else fell into my lap, and after that first year for the remaining time I was drawing two checks, one from the Showcase and one from Home Kare.

Mr. HALAMANDARIS. During the period that you were working for Mrs. Souza, what instructions were you given when you commenced your work?

Were you present today and did you hear Mr. Markin's testimony, and further, did you review the charts that we have prepared here today?

Miss HARVEY. I was just looking at them while I was sitting here listening to Fred.

Mr. HALAMANDARIS. Perhaps we could take the chart of the Senator Hotel. Do you remember that example where a bill was for $7.40 and the amount was kited to $47.47? I would like to show you the original copy of the billing. Medicare was charged $47.47 in that example. If you will take the little check stub and look at the back, can you tell me if that is your handwriting?

Miss HARVEY. Yes.

Mr. HALAMANDARIS. It is your handwriting?

Miss HARVEY. Yes.

Mr. HALAMANDARIS. Can you tell us what it says there?

Miss HARVEY. What it says on the back?

Mr. HALAMANDARIS. Yes, please.

Miss HARVEY. It states the city where the luncheon or whatever took place.

Mr. HALAMANDARIS. Sacramento.

Miss HARVEY. Yes. And it has the names listed as Souza, Zezza, Vivian Ascunsion, Jack Stewart, and the explanation is "insurance plan expanded and revised plan."

Mr. HALAMANDARIS. Were you ever specifically instructed to falsify or to alter or to duplicate or to kite the expense sheets for Home Kare or any other corporations owned by Flora Souza? Were you given any specific instructions to do this; in other words, to represent that this was a luncheon attended by those people that you mentioned? Who told you to write that this was a meal attended by all these people?

Miss HARVEY. Can we do one question at a time, please?

Mr. HALAMANDARIS. Sure. Take any one that you are comfortable with.

Miss HARVEY. Yes, I was told to write names and alter amounts on expense vouchers.

Mr. HALAMANDARIS. Can you tell us who told you to do so?

Miss. HARVEY. I dealt mostly with Sharon Jack.

Mr. HALAMANDARIS. Can you identify Sharon Jack, please?

Miss HARVEY. She is Flora Souza's daughter.

Mr. HALAMANDARIS. Did they do this with Flora's knowledge?

Miss HARVEY. Did she do what?

Mr. HALAMANDARIS. Did Sharon Jack tell you what to do with her mother's full knowledge of what was going on?

Miss HARVEY. I think so.

Mr. HALAMANDARIS. OK. Let me ask you this. Is it true that the money that was generated by double billing or by kiting and by writing out checks, which were endorsed by Flora Souza was deposited to her account. Am I correct that you personally never benefitted from any of those checks that you wrote?

Miss HARVEY. That is correct.

Mr. HALAMANDARIS. Flora Souza in fact endorsed all of these checks?

Miss HARVEY. Yes, sir.

Mr. HALAMANDARIS. And received the amounts therein?

Miss HARVEY. Yes, sir.

Mr. HALAMANDARIS. Can you tell us if you were provided a list of names which to use in writing on the back of these tabs for restaurant meals, did they give you a list of names?

Miss HARVEY. Yes.

Mr. HALAMANDARIS. And say we want you to write?

Miss HARVEY. Yes.

Mr. HALAMANDARIS. I would rather you do the talking instead of me.

Miss HARVEY. Yes; they did give me a list of names. The people at three offices in the State of California that we had already opened, that were opened and operated, and what their duties were, and also on that list were, I guess you could call them, reasons for luncheons and dinners and so on.

Mr. HALAMANDARIS. Who prepared this list?

Miss HARVEY. When I first started working there the lady that used to do the expense records was Mildred Laptalo along with Sharon Jack.

Mr. HALAMANDARIS. That would be Mrs. Souza's sister and her daughter?

Miss HARVEY. Right.

Mr. HALAMANDARIS. All right.

Miss HARVEY. So this was already in operation at that time unless you know exactly where the people were when they were out of town.

Senator CHURCH. You mean when you were provided this list of names and told to select names off that list unless you knew that they were out of town?

Miss HARVEY. No, no, no. The list had about 20 names on it of medical directors, doctors in San Jose, in Santa Cruz and Sacramento. When we knew that Flora was going to be visiting that area office, whoever did the expense reports would write those names on the receipts. Now, we would do it according to what office she was visiting.

Senator CHURCH. I understand. You had to be careful not to get mixed up. If she were visiting Sacramento, you didn't want to put anybody on the San Jose bill. You had to be careful you kept the cities straight.

Miss HARVEY. Unless you knew the person from Sacramento was visiting San Jose.

Senator CHURCH. Sure.

Mr. HALAMANDARIS. I wonder if you can give us some of the names of the people who were on the list. In addition to the Souza family and their employees, were there names of political figures or, let's say, auditors or other employees from the Intermediary Insurance Co. on the list?

Miss HARVEY. I believe Senator Alquist was on that list. I believe his wife Mai was also on the list. As far as anybody from Travelers, I think Ray Kipp was on it and so was Dale Munroe.

Mr. HALAMANDARIS. Do you know Mr. Munroe's title, or that of Mr. Kipp?

Miss HARVEY. No, sir, not offhand.

Mr. HALAMANDARIS. They are in the Los Angeles office of Travelers Insurance Co.?

Miss HARVEY. Right.

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Mr. HALAMANDARIS. At this point I would like to send down a copy of a contract for you to review. First of all, do you recognize this contract?

[The contract referred to follows:]

AGREEMENT

Agreement, made this first day of March 1975, Between Flora's Inc., a California corporation, hereinafter referred to as "Corporation," and Jackie Harvey, hereinafter referred to as "Contractor."

RECITALS

It is the desire of the Corporation to engage the services of Contractor to perform for the Corporation certain bookkeeping functions in connection with the books, records, checking accounts check register maintained by the Corporation, and to consult with the Board of Directors and the officers of the Corporation, and with the administrative staff concerning problems arising in connection with same and with the purchases of equipment, supplies and services; and other problems which may arise, from time to time, in the operation of the Corporation.

It is the desire of the Contractor to consult with the Board of Directors, the officers of the Corporation, and the administrative staff, and to undertake, for the Corporation, the direction of certain bookkeeping and accounting functions.

TERM

1. The respective duties and obligations of the parties hereto shall commence on ——— and continue for a period of one year (1), unless sooner terminated or extended by an agreement in writing.

CONSULTATIONS

2. The Contractor shall make herself available to consult with the Board of Directors, the officers of the Corporation, and the department heads of the administrative staff, at reasonable times, concerning matters pertaining to the bookkeeping and accounting records in the Contractor's field, the relationship of the Corporation with its employees or with any organization representing its employees, and in general, concerning any problem of importance concerning the affairs of the Corporation.

COMPENSATION

3. The Contractor shall receive from the Corporation at cost; clothing, accessories, beauty treatments, haircut and styled and beauty aids for the performance of the services to be rendered to the Corporation pursuant to the terms of this agreement.

EXPENSES

4. The Corporation shall provide to Contractor office space, utilities, telephone, answering service, bookkeeping services, billing services, furniture and furnishings, during the term of this agreement on the premises of the Corporation or at such other place as directed from time to time by the Corporation.

TERMINATION

5. This agreement may be terminated by either party at any time by giving thirty (30) days' written notice of termination to the other party.

GOVERNING LAW

6. This agreement shall be binding on and shall be for the benefit of the parties hereto and their respective heirs, executors, administrators, successors and assigns, and shall be governed by the laws of the State of California.

PART TIME

7. Both Contractor and Corporation know and understand that Contractor shall perform the functions set forth herein after 5 p.m. and on Saturdays and/

or Sundays as the need arises since Contractor is employed from 8:30 a.m. to 5 p.m. five (5) days a week for another employer.

COMPENSATION CHANGE

8. The Corporation shall increase Contractor's compensation to an hourly rate at such time as the operation becomes profitable and is producing a return in Capital.

Executed at San Jose, California, on the day and year first above mentioned.

FLORA'S INC., A CALIFORNIA CORPORATION,

By ——— ———

(title)

JACKIE HARVEY, *Contractor.*

Miss HARVEY. Yes, sir.

Mr. HALAMANDARIS. What is the practical effect of it?

Miss HARVEY. The practical effect of it?

Mr. HALAMANDARIS. What does it do? What does it bind you to? What is the purpose of it?

Miss HARVEY. I don't really know and I didn't know what the purpose of it was when I signed the thing. I had an idea that it just lists what I did for The Showcase between the period of March 1, 1975 through, I think it was, March 1976.

Mr. HALAMANDARIS. Who asked you to sign this contract?

Miss HARVEY. David Sylva who was Flora's attorney. Sharon Jack was aware of it. Now, I don't believe she asked me to sign it. Flora was the main one who asked me to sign it.

Mr. HALAMANDARIS. Does the date appearing on the top of the contract correspond with the date on which you actually signed the contract?

Miss HARVEY. No, sir, that was not the date that I signed it. I signed it a year later in April 1976.

Mr. HALAMANDARIS. You signed it a year later?

Miss HARVEY. Yes, sir.

Mr. HALAMANDARIS. Who gave you the contract to be signed?

Miss HARVEY. The three people I mentioned.

Mr. HALAMANDARIS. The three people you mentioned?

Miss HARVEY. Yes.

Mr. HALAMANDARIS. Would you agree with my suggestion here that the practical effect of what they did is to back date the contract in order to disguise your activities in connection with The Showcase?

Miss HARVEY. Yes.

Mr. HALAMANDARIS. All right. One or two more questions. I would like to send down to you now, if I may, various receipts and ticket stubs which I believe also bear your handwriting and there are other examples of the practice which you have identified here. Could you just look at these and see if they are familiar at all.

I gather from your puzzled look that some of them are your handwriting and some of them are not.

Miss HARVEY. They are all my handwriting.

Mr. HALAMANDARIS. Are they?

Miss HARVEY. Yes, sir.

Mr. HALAMANDARIS. Do you agree that the effect of these is to raise the kite amounts, as in the Senator Hotel example? It looks like we have alterations, with a 2 being raised to a 4, or a 2 being changed to a 5 in some instances.

[A hotel check follows.]

2/19/75 THE ELEGANT

Senator Hotel

12th & L St. Sacramento, Calif. 95814

2	Chere B	3.60
1	Hot Dog	1.60
1	Cold Box + Ref.	1.33
3	Colas	1.20
	TOGO	
	7	.05
		.42
PLEASE PAY CASHIER ▶		7.47
CUSTOMER SIGNATURE		
ROOM NO. OR ADDRESS		
CITY		

622974	DATE 19	WAITRESS 2	NO. SERVED 1

2.97

GUEST RECEIPT from THE Senator HOTEL

622974	DATE 3-18-75	AMOUNT 47.47

NAME Sacramento
FIRM
NAME Devaurs - Souza - Zoss - Vivian
FIRM Ascuaga - Jack - Stewart
NAME Mo. plan - Expended and Reserve
FIRM plan

Miss HARVEY. Yes, sir.

Mr. HALAMANDARIS. Could you testify truthfully that this was a common practice that occurred at Home Kare, that the 10 or 12 examples that we heard here this morning are merely illustrative of a common practice?

Miss HARVEY. Yes; it was a common practice.

Mr. HALAMANDARIS. That is all the questions I have, Mr. Chairman.

Senator CHURCH. I have no questions.

Representative GIBBONS. How long did you work for Home Kare? When did you quit?

Miss HARVEY. I started in February 1975, through June 1976.

Representative GIBBONS. You heard the testimony of the witnesses at the table there. Regarding the testimony of the first witness, Mr. Markin, is it correct as far as you know?

Miss HARVEY. Was his testimony correct?

Representative GIBBONS. Yes, ma'am.

Miss HARVEY. Yes; it was.

Representative GIBBONS. Do you have anything to add to his testimony that he may have missed, forgotten, or perhaps not stated quite accurately?

Miss HARVEY. Mr. Markins' testimony?

Representative GIBBONS. Yes.

Miss HARVEY. No, sir, I don't have anything to add to that.

Representative GIBBONS. All right.

Is Mr. Keeley's testimony correct as far as you are concerned and know?

Miss HARVEY. Yes, sir.

Representative GIBBONS. That is all the questions I have.

Senator CHURCH. Any other questions?

Representative MARTIN. One, Mr. Chairman.

Senator CHURCH. Mr. Martin.

Representative MARTIN. You have said that on these bills that were sent to you here that it was common practice that the amounts be increased, that numbers be written over or other numbers be added. Do you have any way of recalling who made these changes? Do you know who made these changes?

Miss HARVEY. I did.

Representative MARTIN. Did you do this just on your own?

Miss HARVEY. No, sir, I did it because I was told to do it.

Representative MARTIN. Who told you to do this? Would that have been the same person you talked about earlier?

Miss HARVEY. Yes.

Representative MARTIN. Who told you to make these changes?

Miss HARVEY. Now, they were not done on an individual basis. All these ticket stubs were done once a month when expense reports were turned in. The easiest way to explain it would be I would ask how much money in addition to—I guess her salary—would Mrs. Souza need in expense money. Now, if the amount was $600, I would alter the ticket stubs to equal $600.

Representative MARTIN. Who did you ask?

Miss HARVEY. Sharon Jack.

Representative MARTIN. And she would tell you she would need an extra $600.

Miss HARVEY. Yes.

Representative GIBBONS. How many other bookkeepers were there?

Miss HARVEY. There was one other bookkeeper and that was Flora's nephew, Douglas Laptalo.

Representative GIBBONS. He worked at the same time you did?

Miss HARVEY. Yes, sir.

Representative GIBBONS. Thank you.

Senator CHURCH. No further questions.

I want to thank both of you very much.

Representative ROSTENKOWSKI. Mr. Chairman.

Senator CHURCH. Mr. Rostenkowski.

Representative ROSTENKOWSKI. Did you ever have any fear that these changes would be found out?

Miss HARVEY. Did I have any fear?

Representative ROSTENKOWSKI. Yes.

Miss HARVEY. Yes; I did. I thought about it.

Representative ROSTENKOWSKI. How about the other bookkeeper, did he feel that way as well?

Miss HARVEY. Yes, he did because he was in school at the time and his major was business administration so he was into accounting a little bit more than I was.

Representative ROSTENKOWSKI. Over how long a period of time were these changes made?

Miss HARVEY. Oh, I would say they were in operation before I got there and it was still going on when I left.

Representative ROSTENKOWSKI. It was part of doing business?

Miss HARVEY. I would assume so.

Representative ROSTENKOWSKI. How long were you in their employ?

Miss HARVEY. Approximately 18 months.

Representative ROSTENKOWSKI. That is all.

Representative MARTIN. Mr. Chairman.

Senator CHURCH. Yes.

Representative MARTIN. Followup question if I may.

Is it possible for you to estimate the proportion of the legitimate expense to the illegitimate expenses?

Miss HARVEY. Percentagewise?

Representative MARTIN. You testified it was common practice to increase the value of these bills.

Miss HARVEY. Right.

Representative MARTIN. So that large checks would be paid to Mrs. Souza. Did this roughly double the expense payments or was it a 10-percent increase?

Miss HARVEY. On a percentage basis?

Representative MARTIN. Yes; what did it average out?

Miss HARVEY. Probably increased it about 30 percent.

Representative MARTIN. Thirty percent typically?

Miss HARVEY. Yes.

Representative ROSTENKOWSKI. You said it was based really on how much Mrs. Souza needed for her expenses isn't that right?

Miss HARVEY. Yes, sir.

Representative JONES. Would the gentleman yield?

Representative GIBBONS. How often did Travelers come by to audit your books?

Miss HARVEY. How often?

Representative GIBBONS. Yes; did they ever come by?

Miss HARVEY. They came by in, I think it was, April of 1975, to audit the books and they were there for 2 weeks and then they left. They came again in 1976 for about a week and a half, but it was not until after I left. I believe they were there earlier that year. They were there again in April of 1976.

Representative GIBBONS. Do you remember Travelers disallowing any expenses?

Miss HARVEY. To my knowledge, no. They allowed everything.

Representative GIBBONS. Did the Bureau of Health Insurance ever come by to look at the books? Did anybody from the Federal Government other than our own investigators come by?

Miss HARVEY. No, not to my knowledge, they didn't.

Representative JONES. Mr. Chairman, a question.

Senator CHURCH. Mr. Jones.

Representative JONES. You testified that you, yourself, falsified the expense accounts. Do you have any knowledge of falsifying records as to services rendered the patients?

Miss HARVEY. You want a specific instance?

Representative JONES. Yes.

Miss HARVEY. Or you give me one to answer.

Representative JONES. No; I asked it. I will leave it open to you.

Miss HARVEY. Specific knowledge of falsification of records of patients. I don't believe there was any to the patients that we handled, but then I was not in the patient care.

Representative JONES. So the only knowledge you would have of fraudulent billing to medicare or medicaid would be in the expense account area?

Miss HARVEY. Yes, sir.

Representative JONES. Thank you, Mr. Chairman.

Representative ROSTENKOWSKI. What was your salary?

Miss HARVEY. $6,500 a year.

Senator CHURCH. I want to say that the committee very much appreciates the testimony you have both given and the cooperation that you have extended to us to get at the facts of this matter.

I also would want to mention at this time that a subpena has been served on William Kenison, senior medicare representative, medicare part A of the Travelers Insurance Co. directing him to turn over to the committee all the work papers, notes, and other documents in his possession in connection with the audit of this case. He is the next witness, and I might say that the purpose in obtaining this information is to have the basic documents and papers that. with the consent of the committee, will be turned over to the Justice Department for the appropriate action in the enforcement of the criminal laws of this country.

Our next witness then is Mr. William Kenison.

Mr. Kenison, do you solemnly swear the testimony you will give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. KENISON. I do.

Senator CHURCH. Mr. Halamandaris will commence the questioning.

[The subpena issued to Mr. Kenison follows:]

UNITED STATES OF AMERICA

Congress of the United States

To William H. Kenison, Senior Medicare Representative, Medicare Part A
The Traveler's Insurance Company, 3600 Wilshire Blvd., Los Angeles, CA 90010
, Greeting:

Pursuant *to lawful authority, YOU ARE HEREBY COMMANDED to appear before the* Special *Committee on* Aging *of the Senate of the United States, on* March 8, *1977, at* 10 *o'clock* a. *m., at their committee room* 1202 Dirksen Senate Office Building, Washington, D.C. 20510, *then and there to testify what you may know relative to the subject matters under consideration by said committee.*

The Committee requests you testify with respect to the September-December, 1976 audit you conducted in the course of your employment relating to Home Kare, Inc., and Flora M. Souza Physical Therapy, Inc., formerly of 256 East Hamilton Avenue, Campbell, California 95008, and that you bring with you any and all work papers, notes and other documents related to the audit to help you refresh your recollection and to aid the Committee in its deliberations.

Hereof fail not, *as you will answer your default under the pains and penalties in such cases made and provided.*

To Gaylord L. Campbell, United States Marshall
to serve and return.

Given *under my hand, by order of the committee, this* First *day of* March, *in the year of our Lord one thousand nine hundred and* seventy-seven

Chairman, Committee on Aging

Mr. HALAMANDARIS Mr. Kenison, thank you for appearing here today. We would appreciate very much your leaving the Travelers work papers with us as you leave. As the Senator stated, he would like to turn those over to the Department of Justice.

I would like to ask you, when did you begin your audit?

TESTIMONY OF WILLIAM KENISON, SENIOR MEDICARE REPRESENTATIVE, MEDICARE PART A, THE TRAVELERS INSURANCE CO., LOS ANGELES, CALIF.

Mr. KENISON. On September 9, 1976.

Mr. HALAMANDARIS. Were you present this morning, and did you hear Mr. Markin's testimony?

Mr. KENISON. Yes; I did.

Mr. HALAMANDARIS. As I understand it your audit covered a different fiscal year. In the materials provided by Mr. Markin there was some overlapping, I understand, but what fiscal year did you audit?

Mr. KENISON. My audit covered a cost report year ending March 31, 1975, which is the period running from April 1, 1974, through March 31, 1975. We were authorized to start the audit for the March 31, 1976, cost report. However, as Mr. Markin knows, our audit was interrupted on December 22.

Mr. HALAMANDARIS. Did you find basically the same kinds of evidence that Mr. Markin found?

Mr. KENISON. Yes, sir.

Mr. HALAMANDARIS. Did you find anything, different or new, that you can tell this committee about?

Mr. KENISON. One item that I did find additional that I did not hear this morning was an invoice that was from R. G. Cabinets to Robert W. Jack for cabinets and totaling $1,450. That was paid by a Home Kare check. On the face of the invoice there was an allocation of cost between Home Kare and Physical Therapy. I subsequently found an invoice from Robert W. Jack to Home Kare that appeared to cover the same identical cabinet. As is our custom as auditors, we try to verify these things.

I asked Mr. Stewart, showing him the R. G. Cabinets invoice, and asked if he would show me these cabinets. He said yes, but he would have to leave shortly. We made a quick trip and he took me through a certain area of the Home Kare and Physical Therapy and pointed out the cabinets. He then left.

The following morning I was fortunate enough to see Mr. Jack. I presented Mr. Jack with his invoice which had been paid by Home Kare and the amount was $2,000 or a markup of $550 and asked him if he could show me these cabinets, which he did. We took the same identical tour and looked at the same identical cabinet.

I then told him the manner in which I operated as an auditor, that I don't try to pull tricks on anybody, and I said I was shown the same cabinet yesterday by Mr. Stewart. He said, "Well, I think there was a bookcase." He said I must realize Mrs. Souza had her office in what is now the conference room and the shelves ran from floor to ceiling. Knowing that this is a three-quarter inch expensive plywood it could be that that would be the $550 difference.

I said, "Where are the bookcases now?" He was obviously embarrassed and he said, "I don't know; maybe they are in the garage."

I said, "Which garage?" and he said, "I don't know."

I said, "Would you please determine where they are and let me know?"

During the period of my audit remaining after that I never did receive any additional information from him and consequently I eliminated the $2,000 from reimbursable cost.

Mr. HALAMANDARIS. Sir, did you find any evidence that Home Kare purchased supplies from Mrs. Souza's relatives? If so, can you give some examples and are they in any way related to patient care?

Mr. KENISON. The answer is yes. There is a subdistributor of Amway and I am not sure whether it is the son-in-law but in any event he is related to Vivian Ascunsion, a sister of Souza—Amway distributor.

Now some of these purchases were definite supplies that were used in physical therapy because they do have a washing machine and dryer that they use to wash the sheets that they put on the treatment table and I consider those necessary expenses. However, in addition to that there were other items strictly of a personal nature that I have eliminated from the audit. There were, as I say, lipsticks and things of this nature.

Mr. HALAMANDARIS. May I ask you if you reviewed the Home Kare appeals file and do you agree with the final decision that was made? I am talking about the sensitive matter or Mr. Stewart being hired away in midaudit as it were by Mrs. Souza and that is the situation I am discussing. Mr. Kenison did you agree with the final decision which was made in this case?

Mr. KENISON. Yes; I did [review the title].

Mr. HALAMANDARIS. Will you describe for the committee what was involved?

Mr. KENISON. My statement is based on the fact that—I am in the position I have heard a lot of things here that I did not previously have information on and hindsight is good. However, I didn't feel that all of the facts involved regarding the related organizations had been taken into consideration by the revised appeal decision.

Mr. HALAMANDARIS. I was trying to get you to characterize the situation in which Mr. Stewart was, as I understand it, an auditor and had identified certain audit exceptions. Then as I understand the chronology, he went to work for Mrs. Souza and was paid in the neighborhood of $25,000 plus the Mercedes Benz. He then appeared in Baltimore appealing his own audit exceptions. Am I describing the situation correctly?

Mr. KENISON. This is what I have been told. I was not there at the time. I started with Travelers in April 1976.

Mr. HALAMANDARIS. What does that file show?

Mr. KENISON. The audit file that I have, does have a copy of the final decision that was made and I also have some of the backup information that would be part of the audit papers that you are talking about.

Mr. HALAMANDARIS. During the course of your audit did you notice any documents that might have been tampered with? Altered or tampered with?

Mr. KENISON. I can't say that, no.

Mr. HALAMANDARIS. Would you describe, if you would, the general conditions, the financial records in Home Kare?

Mr. KENISON. The financial records, as Mr. Markin has indicated, leave a lot to be desired from the audit standpoint. A trial balance for Home Kare in San Jose, Home Kare in Downey, or Home Kare in San Francisco, the trial balances did not balance in 1975 and when we got into 1976 one of the other auditors that was with me at the time found the trial balances did not balance. The variations in the case of San Jose were approximately $600,000 and going down to Downey was slightly in excess of $100,000 out of balance.

Mr. HALAMANDARIS. Did the conditions of the records hamper your ability to audit in any way?

Mr. KENISON. Yes.

Mr. HALAMANDARIS. Did you ever misplace or remove or lose any of the provider's records?

Mr. KENISON. I did not at any time nor did any other auditor working with me on this audit.

Mr. HALAMANDARIS. Can you tell the committee, please, what is the total dollar amount of your proposed audit adjustments in this particular case?

Mr. KENISON. I have the summary data in my bags back there. I will caution you that we cannot come with a total, the reason being that we have not had access to the related organizations that have been describing this morning which could result in material alterations to the key corporate officers salaries. That part we cannot adjust because we don't have the basis for adjustment. Now we are talking roughly in the amount of——

Senator CHURCH. Mr. Kenison, isn't this really part of the problem? How can you conduct an adequate audit now that you are aware of the interlocking corporate structure and the way costs were shifted from one corporation to the other if you can only audit the books of Home Kare and do not have access to the books of the satellite corporations? How can you conduct an adequate audit?

Mr. KENISON. You cannot conclude and audit under those circumstances.

Senator CHURCH. So you really have a system here owing to the use of multiple corporations and three different Federal programs that can't be audited adequately even by good professional auditors; it is not being policed by the local, State, or Federal levels of the Government and those who draw the money at the end of the pipeline have every incentive to maximize the cost. It is little wonder that we are faced with such a serious problem.

Do you have any further questions, Mr. Halamandaris?

Mr. HALAMANDARIS. With your permission, Mr. Chairman, I would like to identify for the record the other gentlemen who accompany Mr. Kenison, Mr. Kenison, would you be kind enough to do so for the record.

Mr. KENISON. Yes; I would like to.

On my left is Gene Carter, second vice president, Travelers Insurance Co.

And to his left is Secretary of the Travelers Insurance Co., Bert J. Dully, group legal.

On my right is Assistant Director Voris Fabik and he is in Audit Reimbursement, Medicare Administration, Hartford, Conn.

Senator CHURCH. Mr. Jones has a question.

Representative JONES. Mr. Chairman, I am appalled, as you are, by the alleged actions of Home Kare and the satellite corporations. I think I am just as much or more so appalled by Travelers Insurance Co.

You have the prime responsibility for auditing this operation and from what I gather this has been going on about 7 years and they never were audited until this committee got on their back. Is this the standard operation?

Mr. KENISON. No; it is not.

They had been audited before. The corporation was audited under contract audit by Lybrand, Ross Bros., Montgomery in 1968. I don't recall now the contract auditors or the CPA that did it for 1969, 1970, 1971. Mr. Stewart did it in 1972 and 1973.

Representative JONES. I cannot figure out how one investigator from the subcommittee of the House or the Senate can uncover this after 7 years and a big insurance company that is supposed to be protecting Government funds as much as anybody else could miss it all.

Mr. KENISON. Mr. Jones, I would like to say for the benefit of the record this was a 100-percent detailed audit authorized by BHI San Francisco. We reported to Mr. Mike Piazza, CPA, San Francisco office. They supplied us with their own special audit program tailored for this audit. We started that the 9th of September. We had uncovered quite a few adjustments which Mr. Markin later uncovered and which he knew about in November when we met in the hotel room in San Jose. This meeting was all properly approved by B.H.I. San Francisco who talked to Mr. Markin and Mr. Granger at their request. We did not divulge any work papers or mention any names. However, I did meet them. Mr. Markin seemed to have had access to my papers which I now know he did not but he certainly went down the line on some of these variations that he has reported on and that I reported on.

Representative JONES. Was the Home Kare operation pretty standard?

Mr. KENISON. I cannot truthfully answer that question because since 1968 when I came in as an auditor and after 7 years with Blue Cross, and coming to Travelers, this is the first home health agency I ever audited.

I would like to say in answer to your previous question, there were adjustments made in the previous cost reports and when we talk about medicare bad debts, there have been adjustments to medicare bad debts by every auditor who has audited, including Mr. Jack Stewart. What we are talking about is medicare bad debts which is limited to coinsurance and deductibles for medicare patients only. You must eliminate bad debts for private patients, and bad debts for Medi-Cal patients and of course that is what we mean by adjusting bad debts. In the work papers there is history of these various adjustments over all the years starting with 1968.

Representative JONES. Are you saying you uncovered fraudulent expenses in these past audits?

Mr. KENISON. I don't feel that I am qualified to answer that question regarding fraud or the intent of fraud because the medicare regulations provide for the handling of abuse of the program and fraud.

Representative JONES. What I am saying is that your insurance company had primary responsibility for auditing, is that correct?

Mr. KENISON. That is correct.

Representative JONES. You either did not find this kind of thing going on the past 7 years or you did. If you did find it, somewhere there was a breakdown because some action should have been taken against this company by somebody.

Mr. KENISON. I can only answer for my audit year.

Representative JONES. Can any of these other gentlemen help you?

Mr. KENISON. I would like to say this, that medicare auditors are not and cannot be investigators. When you get over into the area of fraud, you need investigators but the auditor by himself can see that things are not the way they should be and these were reported to BHI consistently on a weekly basis as to what we were finding, and they were following up on these items.

Representative JONES. What were they doing as a followup?

Mr. KENISON. You will have to ask the men at BHI.

Representative JONES. You didn't care to find out?

Mr. KENISON. It was not a case of I didn't care. You operate under specific rules and regulations which you must follow.

Senator CHURCH. Mr. Kenison, if the gentleman will yield. Who does Travelers contract with and work for when it conducts the audit of Home Kare?

Mr. KENISON. HEW.

Senator CHURCH. You were paid by the Federal Government then to do your auditing?

Mr. KENISON. I am paid by Travelers Insurance.

Senator CHURCH. I am speaking now of the Travelers Insurance Co. Who pays the Travelers Insurance Co. for auditing Home Kare's books?

Mr. KENISON. The Federal Government.

Senator CHURCH. How much auditing do the Travelers do for the Federal Government in connection with the medicare program account?

Mr. KENISON. Are you asking how many hospitals or skilled nursing homes?

Senator CHURCH. No; I am asking what portion of the total business. How many insurance companies participate in the program?

Mr. KENISON. Are you talking about the different intermediaries in the State of California?

Senator CHURCH. I just want to know what proportion the Travelers Insurance Co. does. Do you know?

Mr. KENISON. Comparing Blue Cross to Travelers, it is extremely small.

Senator CHURCH. What is the total of all accounts serviced by Travelers? Do you have that information?

Mr. KENISON. I do not have that information.

Senator CHURCH. How many former Travelers employees are now working for Flora Souza?

Mr. KENISON. Three.

Senator CHURCH. Three?

Mr. KENISON. Three.

Senator CHURCH. All of whom were previously connected with auditing the Souza Books?

Mr. KENISON. No; two were. One was not.

Representative ROSTENKOWSKI. Mr. Chairman.

Senator CHURCH. Yes.

Representative ROSTENKOWSKI. Could we have the names of the people that were and were not?

Senator CHURCH. Yes; I think we should have the names and the nature of the work that they did while employed by Travelers Insurance Co. in connection with Home Kare.

Mr. KENISON. You have Mr. Jack Stewart who was supervisor of audit, Los Angeles office, prior to my coming. Prior to my coming was Michael Powell who was an auditor with the Los Angeles office. The third person was hired and went there during the time I was on audit and he was a stranger, I had never met him. Gary Paquet, was a claims examiner in the Hartford office.

Representative VANIK. Mr. Chairman.

Senator CHURCH. Mr. Vanik.

Representative VANIK. What do you think of the propriety of an intermediary's employee shifting over to a provider under audit?

Mr. KENISON. I am not aware of anything that prohibits an employee from leaving an employer and going to work for another employer.

Representative VANIK. Excepting in that situation that employee was supposed to be auditing a provider and he changes hats and he can be easily rewarded by a provider. Isn't that a cozy relationship that would not be in the public interest?

Would you not expect that your employee should have some objectivity so that he would not be lured away by employment and personal enrichment by taking a position with someone who he supposedly was doing an audit upon?

Mr. KENISON. Frankly in these cases here and knowing the salaries that have been talked about, that is entirely up to the individual. Of course one reason why your hospital and nursing facilities are seeking people that come from the intermediaries is because of the expertise they have developed as medicare auditors with the intermediaries and in some of these cases, here with what has been said, they are doubling their salary. I am not the one that is going to say that they are wrong.

Representative VANIK. Mr. Chairman, if I may inquire further.

What would be your reaction to an amendment or some provision of the law which would deny eligibility to a provider who hired an employee of the intermediary that is conducting an audit and prohibits such an employment for maybe a year? Don't you think that that might help to give the public a little bit more protection on the objectivity of the audit?

Mr. KENISON. I personally would welcome such a law.

Representative VANIK. Thank you, Mr. Chairman.

Senator CHURCH. The reason you would welcome such a law is there is an apparent conflict of interest in this relationship that you describe, isn't there?

Mr. KENISON. We do not feel it would be a conflict of interest here. We favor this type of a law if one should be enacted to protect the intermediaries as well as the public in general.

Representative VANIK. I might say, Mr. Chairman, I have such an amendment to offer to H.R. 3 and I would add it to the bill.

Senator CHURCH. I hope it is added to the bill as well and I can only conclude that the witness also favors such a provision in order to put a stop to the very practice that has been described though he is unwilling to say he finds anything wrong with the practice. That does not hold up. It is obviously a very clear conflict, it seems to me. Auditing the books of a corporation of this kind could involve hundreds of thousands. And then to be tempted in the middle to forget about your findings in exchange for a nice salary and a Mercedes car can have only one result—the corruption of both the auditor and the system.

Representative ROSTENKOWSKI. Mr. Chairman, it is at that point that I am concerned with what Travelers Insurance position was.

When an employee who is auditing a concern leaves to gain full employment of the very concern he has been auditing, do you not have some procedure under which you would then have another person go in and audit? If there is ever a signal, I should think that that should be the flag flying in your face.

Mr. KENISON. Well, you should be aware of the fact if the information I have been told is correct, because I was not there when this happened—the staff of the Los Angeles office went over these audits that he had done so the intermediary was doing a rechecking job.

Representative ROSTENKOWSKI. And found nothing wrong?

Mr. KENISON. Yes; they did and they made changes. They revised the audit.

Representative ROSTENKOWSKI. Who revised the audit, Mr. Kenison? You mean Travelers before he went over changed the audit?

Mr. KENISON. The circumstances particularly under which he had left and the employer that he was going to necessitated the reimbursement section, audit section of Travelers Los Angeles office to revise the cost reports that he audited and corrected some of the decisions that he had made.

Now I am not in the position to know myself what changes were made. Those are in the files in Los Angeles.

Representative ROSTENKOWSKI. Mr. Kenison, I do not want you to misunderstand me. I am quite concerned with what the Government was doing as well. I am sure that a computered program would be kicking out some irregularities in Baltimore. I am just wondering whether or not the people in our bureau of health insurance were delinquent.

But what I am discouraged about really is the fact that your final audit uncovered the discrepancies. But this concern has been audited for 7 years, has it not?

Mr. KENISON. Yes.

Representative ROSTENKOWSKI. And only after an investigator from our committee shakes the mop, all of a sudden all the dust starts flying.

Now we are in a situation where I just see, and I am quite concerned with the entire program having been totally distorted, discouraging people that want to legislate expansions in the home health area becoming frustrated really with the fact that we really are not getting health care dollars to needy people.

That is all, Mr. Chairman.

Representative JONES. Would the gentleman yield?

Representative ROSTENKOWSKI. Yes.

Representative JONES. Mr. Kenison, would you support a change in the law that put the auditing requirement on the Government itself or put a substantial penalty on the intermediary when they were not auditing properly?

Mr. KENISON. I do not feel qualified to answer that question.

Senator CHURCH. Let me put the question a little different way.

Mr. KENISON. All right.

Senator CHURCH. What incentive does the intermediary have to find cases of fraud and abuse?

Mr. KENISON. We are under directives from HEW——

Senator CHURCH. I mean aside from the directives.

Mr. KENISON. Aside from the directives?

Senator CHURCH. You are getting paid to conduct an audit; in any case, you are being paid for your time. As I understand it, this provider selected you from a list of seven companies. You were selected. This morning our investigator, who I must say did a pretty good job of getting what a number of agencies with their audits did not get, testified that you have an incentive not to be too tough on a provider, because if you are, the provider will say I will drop you from the list and choose some other insurance company to review our claims and do the auditing. Now this is a good business for you. It seems to me that the incentives are all wrong. The incentives are do not rock the boat too badly or you might lose the business and it will go to another intermediary who will be more careful not to ask too many questions.

As long as you are paid for a normal audit, what incentive is there to rock the boat, to find the abuse if it will only lead to problems between you and the provider which may result in you being selected out by the provider himself or itself?

Mr. KENISON. With regard to changing intermediaries, shortly before I left Los Angeles there was a new revision to HIM–I and HIM–15 and also in HIM–13. It is no longer possible for a provider to, at his own will, jump from intermediary to intermediary.

Senator CHURCH. But up until just recently when Congress and this committee and the Ways and Means Committee began to get interested in the fraud problem it was possible, was it not?

Mr. KENISON. Well, I know the Blue Cross turned down people who tried to come over. I know that Travelers has personally turned down some that wanted to come from Blue Cross over to Travelers.

Senator CHURCH. That is a different question. The provider did have the option and did have the right before this regulation was changed. Well, that means to me that the message must have been very plain, that it is better not to probe too far or you might lose the business.

Representative VANIK. Mr. Chairman.

Senator CHURCH. Yes.

Representative VANIK. What was the total amount received by Travelers for its work as a medicare intermediary in 1976? How big an item of business is this? Do you have that figure? Do you have any approximations, any idea?

Mr. KENISON. Mr. Carter says it is around $7 million as reimbursement for costs incurred.

Representative VANIK. Around $7 million?

Mr. KENISON. Round figures.

Representative VANIK. I have one other question. You knew about Mr. Stewart's employment, your company had an awareness of it for a time. Why was he not removed from the audit function as soon as you determined that he was moving to a new form of employment with the subject of the audit?

Mr. KENISON. My understanding is that he was not on audit at the time he gave his 30-day notice on the first of April. He remained in the office.

Representative VANIK. But does not his connection with the provider precede that by some period of time?

Mr. KENISON. Three days as far as we know because it was the later part of March.

Representative VANIK. Thank you.

Thank you, Mr. Chairman.

Representative MARTIN. Mr. Chairman, I have a question.

Senator CHURCH. Yes.

Representative MARTIN. The previous witness, Miss Harvey, testified that the names of two Travelers officials, Ray Kipp and Dale Munroe, the former who was Mr. Stewart's boss and the other who is medicare manager for Travelers were on a number of there expense vouchers. I did not get what the number was, but did you find such items in your examination of the records?

Mr. KENISON. I found one expense report with Dale Munroe's name. I found four that had Mr. Kipp's name, at the time Mr. Kipp was manager the same as Mr. Munroe is manager now. The manager of any intermediary—when a provider calls for help and will only talk to the manager, the manager has to respond to that call for help.

Representative MARTIN. Well, that is a reasonable assumption. Did you ask them whether, in fact, they had attended these luncheons?

Mr. KENISON. I did and they affirmed, yes, and that was the purpose of the meeting.

Representative MARTIN. So that therefore you would have to presume that those expense statements there mentioned were legitimate. Would that be the conclusion that you would draw?

Mr. KENISON. When you have not only the 1 individual but anywhere from 4 to 10 additional people, you begin to wonder whether or not you should allow a portion of it. This is the judgmental determination rather than a firm audit adjustment based on known fact.

Representative MARTIN. Did you ask if all of those other people were there also?

Mr. KENISON. No; because again this is investigation. I would like to say that with regard to Mr. Munroe and Mr. Kipp their expense accounts with Travelers were checked and there were no expenses re-

corded to Travelers for those meetings so it was not a double payment in that sense.

Representative MARTIN. Thank you.

Senator CHURCH. I just have one other question. As I have said previously, I am disturbed at the way the system fails to provide proper motivation to prevent abuses. My understanding is that Travelers paid its reasonable costs in connection with an audit. There is no particular profit to be made through the discovery of various forms of the bilking that is going on. What if the law provided the auditing company would be entitled to a certain percentage of the recovery that the Government realizes as a result of the audit? Does that not turn the incentive around? I do not know. I am just asking.

Mr. KENISON. I think maybe the attorneys ought to answer this rather than the auditors.

Senator CHURCH. You know, we have got to do something to make this system work on its own. There are not enough investigators, there are not enough Government employees, there are not enough FBI men to police a system of this magnitude. There are not enough prosecuting attorneys, there are not enough courts to handle the cases that I suspect are out there, and so we have to do something else. We have to find a system that works in the direction of honesty, that pays off honesty and not graft.

The present system seems to operate in favor of graft and that is why I ask this question. I don't know whether it is a good idea or a bad idea but I see that it might give some incentive to auditing companies that is now lacking in the present system.

Mr. KENISON. If I may, I would like to add some additional information as an intermediary. No change can be made without the approval of the Bureau of Health Insurance which is HEW. They have to be approved for the change.

Senator CHURCH. That is a thin reed.

Mr. KENISON. It is.

Senator CHURCH. Based upon what we are finding out.

Mr. KENISON. I would also like to add that where I have found these things they have been eliminated from the cost.

Senator CHURCH. Yes.

Representative GEPHARDT. Can you explain first of all what is meant by periodic interim payments?

Mr. KENISON. That is a formula to provide regular cash flow to a provider on a biweekly basis and he has to submit a worksheet to establish his cost to verify this payment. I am not involved in payments as an auditor, only from the standpoint when we come to the audit we need to know what has been paid because this is reimbursement that the provider has already been paid for that comes out of whatever we may owe him, if we find that he has not included costs that he should, or he owes that much more money back to the program.

Representative GEPHARDT. How do corporations qualify for the payments?

Mr. KENISON. The qualifications in the regulations state that there must be auditable books and records that are accepted. In other words, you are supposed to have a good accounting system and be able to support that accounting system.

Representative GEPHARDT. Did the corporation in question here qualify for payments, and if so how much was there?

Mr. KENISON. I do not know the amount of the payment, it is handled outside our areas in the claims area and I don't know. I have given you about all the answer I can give you.

Representative GEPHARDT. Based on the quality of the financial records that they had, should they have been on PIP?

Mr. KENISON. To answer your question, based on my audit I do not feel they would have qualified to be on.

Representative GEPHARDT. Were they qualified by your corporation to be on PIP payments?

Mr. KENISON. They must have been because they are on PIP.

Representative GEPHARDT. They are on PIP?

Mr. KENISON. Yes.

Representative GEPHARDT. Your testimony today is you don't think they would have qualified or should have qualified to be on PIP?

Mr. KENISON. That is my personal opinion as an auditor.

Representative GEPHARDT. Thank you.

Senator CHURCH. If there are no further questions——

Representative MARTIN. Mr. Chairman.

Senator CHURCH. Mr. Martin.

Representative MARTIN. It is estimated that total revenues of this company in its ability is something like $7.5 million and I know that it might not be easy to do off the cuff but can you give an estimate as to the size of the business allowances, the business accounts, and the expense accounts that this company has?

Mr. KENISON. I would rather not do that. I would rather be——

Representative MARTIN. You would rather what?

Mr. KENISON. As I understand, Mr. Markin knows more about this than I do. Of course, they are in my books and records as to what the amounts are that were eliminated from the Travelers expense, what they were originally in the cost report by the providers, but I cannot give you that relating to the volume, and you are using another word there that we do not segregate. We have no means to segregate fraud from other adjustments. We eliminate the total cost. Now, general audit procedures do not encompass fraud investigation.

Representative MARTIN. I believe that is false claims.

Well, other than salaries and office space, do you have any estimate of the total of all other expenses that were claimed against the contract?

Mr. KENISON. I can refer you to the cost report, what they claim.

Are you asking about the total of my adjustments at the present time?

Representative MARTIN. If you have it. I am trying to get a handle of the problem of the size you are talking about.

Mr. KENISON. I preface my remarks that there are certain areas that we cannot adjust because we don't have access to those records. Outside of that, and these are strictly estimated proposed adjustments, they have not been discussed with the provider. The provider has not had an opportunity for a normal audit exit conference, at which time if there are items that you do not have documentation for and they supply the acceptable documentation you make your change

in your audit. So with that background the proposed total adjustment is around $80,000.

Representative MARTIN. The disallowed claims total $80,000?

Mr. KENISON. Expenses.

Representative MARTIN. The total of expenses——

Mr. KENISON. We have disallowed expenses of approximately $80,000 on the San Jose Home Kare. I do not remember at this point what Downey was. I might say that San Francisco only ran from April 1, 1974, to August 31, 1974, when it was terminated and brought into San Jose as a branch of San Jose and the cost between September 1, 1974, and 1975 are in the cost of Home Kare San Jose. It is a branch of San Jose. When I say San Jose you must understand that is in full for a year but San Francisco is only in for a portion as far as San Jose.

Representative MARTIN. Then if I understand what you just said, if we disallowed expenses, which parenthetically have not been discussed with the company in question so there has been no chance for them to respond, but if the disallowed expenses are on the order of $80,000, if you compare that with the total level of revenues of $7.5 million, then you are dealing with a correction on the order of 1 percent of total.

Mr. KENISON. Right.

Senator CHURCH. That, of course, does not take into account all of the fraudulent practices which were not revealed in the audit nor the interlocking transfer of costs to the corporation that was not audited; so we really have no way of knowing how much this would represent in its entirety.

Mr. KENISON. But at least it does indicate the magnitude of those costs which are and can be found by an audit which would mean this is the way it had been done in the first place rather than the predecessor's audit. The total amount of money in revenues flowing to this company would have been roughly the same but it does not say they are any less fraudulent, it just says for some purpose they brought themselves a lot of trouble with very little differential.

Senator CHURCH. We would have the testimony that the audit cannot be adequate if it is confined to just one corporation. I think that most of the inflated cost has come from transferring costs of the satellite corporations to the Home Kare corporation. Most audits don't reveal the extent of the loss.

Representative MARTIN. Mr. Chairman, that is a perfectly valid observation. I appreciate the point that you are making. What I am trying to get at is how do we try to estimate. We know it is at least 1 percent of the total, maybe 2 percent, maybe 5 percent.

Mr. KENISON. One area remains, a question, Senator, if I might say so. Auditwise do we know what the total revenue, actual revenue was? I have a work sheet on Physical Therapy, Inc., two pages. One is actually two sets of revenue figures, the other is a separate set of revenue figures for the year. No three totals agree but the total visits agree.

Representative MARTIN. I don't know how else to pursue that Senator. I was trying to get it in perspective.

Senator CHURCH. Yes; I think it is very important that we find some way to estimate how much money is being siphoned off but it is clear that the present auditing mechanism does not give us what we are looking for, it does not give us a complete picture. The main question here is to what extend did Home Kare simply increase the number of visits beyond the need of the patient in order to enlarge the billing of the Government. The audit, I take it, would not get into the question of whether or not a given patient should have had 6 visits, 2 visits, 8 visits or 11 visits, or whether Home Kare billed for services not rendered.

Mr. KENISON. That is not an audit function.

Senator CHURCH. That is not an audit function and yet I think that this would be the principal way for bilking the Government.

Representative MARTIN. We do have an estimate there that the number of calls is roughly 7 percent more than the average.

Senator CHURCH. Right, which suggests, I think, the Government was being over billed and that over billing was paying the cost of a number of other corporations, including the one that had captured half the business for homemaker/chore services in the State of California because its ability to underbid competitively by virtue of the subsidy it was receiving from the Government through the Home Kare Corp. Now none of this can be revealed by the present audit system.

It is unbelievable.

Do you have any further questions?

Thank you, gentlemen, very much for your help.

Senator CHURCH. Our next witnesses are Flora M. Souza and Jack C. Stewart.

Mrs. Souza, will you please take the oath?

Do you solemnly swear that all the testimony you will give will be the truth, the whole truth and nothing but the truth, so help you God?

Mrs. SOUZA. I do.

Senator CHURCH. Mrs. Souza, will you please state your name.

[Subpenas issued to Mrs. Souza follow:]

UNITED STATES OF AMERICA

Congress of the United States

To Flora M. Souza, 2516 Samaritan Drive, San Jose, California 95124 President, Home Kare, Inc., Unicare, Inc., Allied Paramedical Training Institute, Inc., Ambi-Kare, Inc., Flora M. Souza Physical Therapy, Inc., **Greeting:**

Pursuant *to lawful authority, YOU ARE HEREBY COMMANDED to appear before the* Special *Committee on* Aging *of the Senate of the United States, on* March 8, *19*77, *at* 10 *o'clock* A. *m., at their committee room* 1202 Dirksen Senate Office Building, Washington, D.C. 20510, *then and there to testify what you may know relative to the subject matters under consideration by said committee.*

The operations of the above-named corporations receiving funds from Titles XVIII, XIX and XX of the Social Security Act. The Committee requests that you bring with you the Home Kare, Inc. cash disbursements journal covering the period from 1973 through March 1976.

Hereof fail not, *as you will answer your default under the pains and penalties in such cases made and provided.*

To Frank Klein, United States Marshall *to serve and return.*

Given *under my hand, by order of the committee, this* First *day of* March, *in the year of our Lord one thousand nine hundred and* seventy-seven

Frank Church

Chairman, Committee on Aging

UNITED STATES OF AMERICA

Congress of the United States

To Flora M. Souza, President or other officer, Home Kare,Inc.,Unicare,Inc., Allied Paramedical Training Institute, Inc., Ambi-Kare, Inc., Flora M. Souza Physical Therapy, Inc., Health Care Legislative Council, Inc., a/k/a California Association-Providers of In-Home Health Services, Inc., 256 East Hamilton Avenue, Campbell, California 95008, Greeting:

Pursuant *to lawful authority, YOU ARE HEREBY COMMANDED to appear before the* Special *Committee on* Aging *of the Senate of the United States, on* January 27, 19 77, *at* 10 *o'clock* a *m., at their committee room* 1224 Dirksen Senate Building, Washington, D.C. 20510, *then and there to testify what you may know relative to the subject matters under consideration by said committee.* The Committee requests that you provide all business records relating to the operations of the above named corporations for your fiscal years 1974, 1975, 1976 and 1977, including for each corporation: general and subsidiary ledgers, general journals, all supporting vouchers, invoices and payroll records, all leases, contracts and mortgages, all cancelled checks, bank statements and deposit slips, all records maintained by your certified public accounting firm and all other fiscal and accounting records. In lieu of a personal appearance for the production of these documents in Washington on the above date, the above records may be turned over to the Committee representative designated below who serves this subpoena upon you but not later than 10 a.m. on January 21, 1977.

Hereof fail not, *as you will answer your default under the pains and penalties in such cases made and provided.*

To Val J. Halamandaris or John Markin *to serve and return.*

Given *under my hand, by order of the committee, this* 11th *day of* January, *in the year of our Lord one thousand nine hundred and* 77

Frank Church

Chairman, Committee on Aging

TESTIMONY OF FLORA M. SOUZA, PRESIDENT, HOME KARE, INC.

Mrs. SOUZA. Flora M. Souza.

Senator CHURCH. Will you give your address.

Mrs. SOUZA. 12370 Sara Glen Drive, Saratoga, Calif.

Senator CHURCH. Will you tell us what your combined salary and compensation was last year from Home Kare, Unicare, Physical Therapy and Ambi-Kare and the Health Care Legislative Council?

Mrs. SOUZA. I refuse to answer the question on the grounds it may tend to incriminate me, therefore exercising the privilege under the 5th amendment to the Constitution.

Senator CHURCH. Mrs. Souza, we recognize your constitutional right not to testify before this committee. We do not propose to ask you question after question for the fruitless purpose of hearing you repeatedly invoke your privilege against self-incrimination. Instead, we have furnished your attorney with a list of questions which I assume he has reviewed with you. These are the questions which we would have liked answered today. They indicate the parameters of our concern not only with you and any possible violations of the law but also reflect our keen interest in how the medicare and medicaid programs may be improved.

We are hopeful to learn what we must do legislatively to protect the fiscal integrity of the Government health care programs. I may add that these questions also relate to your business dealings which are widely supported by funds from title XVIII and XIX of the Older Americans Act and XX of the Social Security Act. They are germane and pertinent. I will place these questions in the record at this point to show that you have responded and refused to answer the questions asked of you.

[The questions referred to follow:]

QUESTIONS FOR FLORA SOUZA

1. Mrs. Souza, what is your affiliation with and salary from each of the following corporations for your most recent fiscal year:

Home Kare, Inc.?
Unicare, Inc.?
Flora M. Souza, Physical Therapy, Inc.?
Allied Paramedical Institute?
Ambi-Kare?
Health Care Legislative Council?
The Showcase?

2. Can you tell us what additional fringe benefits you receive in connection with the operation of the above corporations? (i.e. cars, health care, pension, and so forth)?

3. Can you tell us how many relatives you have working for you, the amount of time they spend working for each of your corporations; their salary and fringe benefits and which corporation pays their compensation?

4. How many recreational vehicles have you owned through one of the above 7 corporations in the past 10 years? Which corporation purchased or leased each vehicle and what was the price and financing terms thereof?

5. Is it true that you have a full time mechanic and driver for your present recreational vehicle. If so, what is his name and salary. Does he perform any other duties? If so, what percent of his time is taken in the exercise of those duties? Does Home Kare assume 100 percent of his salary costs?

6. Did you engage contractor George Pezzolo to remodel your present home and then charge Home Kare (and thus medicare) for the cost of such renovations including supplies, labor or decorations? Have you listed any renovations

to your present home or your previous residence at 1824 Catherine Street, Santa Clara, Calif., as "leased property improvements" and charged such items to Home Kare?

7. Did you claim your mother, Rose Travasso, as a bad debt and offset the debt against medicare? Did you claim Lewis Lackner as a bad debt?

8. Did you persuade Jack Stewart (then a Travelers auditor reviewing your books) to come to work for you and to defend you against audit exceptions which he had found? Was part of the inducement to Mr. Stewart a Mercedes Benz 450 SL which you purchased at Carwell Motors in Hermosa Beach on March 23, 1974 for the sum of $14,944, which was charged to Home Kare and hence to medicare? Was Mr. Stewart's salary last year $43,000? What other fringe benefits did he receive?

9. Did you at any time manufacture dummy (false) expense receipts to support alleged business meals or other expenses for which you were reimbursed from Home Kare? Did you direct anyone to do so?

10. Did you at any time bill the medicare or medi-cal program for services not rendered? Did you direct anyone to do so?

11. Did you personally or did you direct anyone to bill medicare or medi-cal at any time for more services (or time) than was actually delivered?

12. Did you at any time include with your Home Kare charges for business meals, food for your dog, Cherie? Did you ever charge Home Kare for medical expenses incurred by your dog?

13. Did you purchase wallpaper for your home, a brass bed, oil paintings, jewelry, or other items for your personal use which you charged to Home Kare and medicare?

14. Did you ever receive instruction and/or assistance in how to pad costs so they would not be discovered by auditors from (a) Jack Stewart, (b) other former or present employees of Travelers Insurance Co. or (c) employees of the Bureau of Health Insurance?

15. Did you pay consulting fees or any other consideration to employees of the Bureau of Health Insurance? If so, to whom? In what amount and for what purpose?

16. Did you every pay funds to State, county, city, or Federal political officials in exchange for preferential treatment in conneciton with one of your corporations? Did you direct anyone to do so?

17. Did you ever pay funds or other consideration to city, county, State, or Federal employees including county welfare directors, in an effort to obtain title XX contracts?

18. Did you incur legal expenses for Unicare, Ambi-Kare, Flora M. Souza Physical Therapy, Inc., Health Care Legislative Council, Inc. and The Showcase and charge or cause these to be charged to Home Kare and hence to Medicare?

19. What business purpose was there in your November 2–8, 1975 trip to Hawaii for which you charged Home Kare (Medicare) $3,535?

20. Did you purchase a walnut desk for $393.00 on or about August 1975 through The Showcase and did you on or about this same time sell this same desk to Home Kare and thus Medicare for $583? If so, what did you do with the $190 differential? Have you done this with other purchases through The Showcase?

21. Did you place or direct the placement of The Showcase beautician, Kay Bradley, on the payroll of Home Kare? Did you require bookkeeper Jackie Harvey to spend 50 percent of her time working on The Showcase books even though she was paid entirely by Home Kare?

22. Did you at any time offer, solicit or receive kickback, rebate or other consideration in exchange for (or in the consequence of) doing business with Home Kare, Unicare, Flora M. Souza Physical Therapy, Inc., Ambi-Kare, Home Kare, Legislative Council or The Showcase. Did you direct or authorize anyone to do so?

23. Are you in a business deal to build and operate a medical building in Los Gatos, San Jose, California together with Edward and Lewis Lackner, father and brother of Jerome Lackner, Director of California's Department of Health? Has Mr. Jerome Lackner ever given you preferential treatment outside that accorded to all Californians in the normal course of his office?

24. Is the Health Care Legislative Council, Inc. (HCLC) essentially a lobbying organization? Did you charge all of the expenses associated with this corporation to Home Kare? Did you direct anyone to do so?

25. Did you forbid Fred Keeley from registering as a lobbyist because doing so would mean that his Home Kare salary (for doing Health Care Legislative Council work) would be disallowed?

26. Did you direct Keeley to manufacture dummy (false) expenses to be represented as having been incurred by Health Care Legislative Council?

27. Who were present at the organizational meeting of HCLC?

28. Are Edward and Lewis Lackner on Home Kare's advisory board? What compensation, if any do they receive? Are you, and Jack Stewart reimbursed $50.00 plus expenses to attend Home Kare advisory board meetings? How often are they held?

29. Have you ever paid any consideration in the form of incentive payments or referral fees to physicians or hospital social workers who agree to send patients to Home Kare, Unicare or Physical Therapy, Inc.?

30. Do you know Dr. Gumbinder and what is your relationship with him?

31. Do you know Terry Frost and what is your relationship with him?

32. Have any State Senators or Assemblymen in California succeeded in having legislation enacted or regulations written at your urging which have been of direct personal or financial benefit to you? If so, what, by whom, and when?

33. What is your view of the fiscal integrity of the Medicare, Medi-Cal and Title XX program? Are these programs vulnerable to fraud and abuse? What can we do to help reduce the incidence of abuse?

34. It is not a fact that your corporation Unicare can underbid virtually any Title XX contract bidder because you and your officers and employees have willfully and intentionally passed overhead costs normally associated with Unicare to Home Kare and hence to Medicare? For example, in opening your San Luis Obispo office you obtained a house to serve as office for both Unicare and Home Kare. Is it not true that all the furniture and supplies and other startup costs for the Unicare office were born by Home Kare?

35. One of your former clients provided a sworn statement to the Committee telling, among other things, that she was intentionally tortured by a Unicare employee. She summarized her statement by saying, "If older persons, more ill, more senile, went through one third of what I did, may God forgive Unicare." Another client characterized the Unicare service attitudes as follows:

"You're getting this service for free, so quit complaining." Do you have any comments concerning the quality of services offered by your corporations?

36. Did you personally or did you direct someone to charge Home Kare $38.31 for a meal at the Carnelian room in San Francisco and did you then submit or cause to be submitted the stub from this same restaurant ticket to justify a January 29, 1976 $121.11 dinner at the Carnelion room, which never took place? Did you then convert this $121.11 obtained through this misrepresentation to your personal use?

37. Did you personally or did you direct someone to charge Home Kare $43.40 for a meal at Sebastian's in Campbell, California and use the restaurant check of October 7, 1975 to justify this meal for business purposes? Did you then use the stub of this same restaurant ticket to justify a $220.00 meal which never took place and did you by this misrepresentation convert the amount of $220.00 to your own personal use?

38. Did you charge or cause to be charged $216.00 to Home Kare (and hence to Medicare) for an alleged business meal in December 1975 at Maison-Mendessolle which is in fact a woman's clothing boutique in the St. Francis Hotel in San Francisco? Is it not true that the $216.00 charge was for clothes you purchased on December 29, 1975 for your own personal use?

39. Did you at any time charge or cause to be charged the same business meals, or other expenses simultaneously to Home Kare and Flora M. Souza Physical Therapy, Inc., Unicare, or another of your corporations?

Senator CHURCH. Now the purpose is to make that record and in doing so I will ask, do you assert your constitutional right against self-incrimination to each and all of these questions?

Mrs. SOUZA. Yes; I do.

Senator CHURCH. In answering that question will you state whether or not you have reviewed the questions to which I have referred?

Mrs. SOUZA. Yes; I have.

Senator CHURCH. Very well, Mrs. Souza. You are excused.

Mrs. SOUZA. Thank you.

Senator CHURCH. Our next witness is Mr. Jack C. Stewart.

Mr. Stewart, will you please stand and take the oath.

Mr. Stewart, do you solemnly swear that all the testimony you will give to this committee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. STEWART. I do.

Senator CHURCH. Mr. Stewart, will you state your full name, please.

[The subpena issued to Mr. Stewart follows:]

UNITED STATES OF AMERICA

Congress of the United States

To Jack C. Stewart, Comptroller/Employee of Home Kare, Inc.
2516 Samaritan Drive, San Jose, California 95124
, **Greeting:**

Pursuant *to lawful authority, YOU ARE HEREBY COMMANDED to appear before the* Special *Committee on* Aging *of the Senate of the United States, on* March 8, 1977, *at* 10 *o'clock* a. *m., at their committee room* 1202 Dirksen Senate Office Building, Washington, D.C. 20510, *then and there to testify what you may know relative to the subject matters under consideration by said committee.*

Your activities as an employee of Home Kare, Inc. at the above address and/or as an employee, officer or party of interest in any of the following corporations:

Flora M. Souza Physical Therapy, Inc., Unicare, Inc., Allied Paramedical Training Institute, Inc., Ambi-Kare, Inc., Health Care Legislative Council, Inc., a/k/a California Association - Providers of In-Home Health Services, Inc.

Hereof fail not, *as you will answer your default under the pains and penalties in such cases made and provided.*

To Frank Klein, United States Marshall
to serve and return.

Given *under my hand, by order of the committee, this* First *day of* March, *in the year of our Lord one thousand nine hundred and* seventy-seven

Frank Church

Chairman, Committee on Aging

TESTIMONY OF JACK C. STEWART, COMPTROLLER, HOME KARE, INC.

Mr. STEWART. My name is Jack C. Stewart.

Senator CHURCH. Will you give your address.

Mr. STEWART. 1115 Bartlett Creek Court, San Jose, Calif.

Senator CHURCH. Did you in your capacity as an auditor with the Travelers Insurance Co. conduct an audit of Home Kare, Inc.? If so, when was the audit completed and what were your findings?

Mr. STEWART. I respectfully decline to answer that question on the grounds it may tend to incriminate me. Therefore, I invoke my privilege under the 5th amendment.

Senator CHURCH. Mr. Stewart, we recognize your constitutional right not to testify before this committee. We do not propose to ask you question after question for the fruitless purpose of hearing you repeatedly invoke your privilege against self incrimination. Instead, we have furnished your attorney with a list of questions which I assume he has reviewed with you.

May I ask at this point whether or not that list of questions which I have just referred to has been shown to you and reviewed by you?

Mr. STEWART. Yes; it has.

Senator CHURCH. These questions indicate the parameters of our concern not only with you personally but more importantly with major questions concerning the fiscal integrity of the medicare and medicaid programs. We are hopeful that we may learn what must be done legislatively to improve the operation of the medicare and medicaid programs.

Many of the questions we would ask you here today relate to your business dealings as an employee of Home Kare which receives 99 percent of its funds from the taxpayers. In fact, 95 percent of all of Home Kare's funds are Federal medicare dollars. The questions are germane and pertinent and I will place them in the record at this point to show that you have responded and refused to answer the questions asked of you.

[The questions referred to follow:]

QUESTIONS FOR JACK STEWART

1. What is your employment background? How long have you been with Home Kare? What did you do prior to that time?
2. What was the nature of your work with the Traveler's?
3. How did you first come into contact with Mrs. Souza and/or her corporation?
4. Did you conduct an audit of the financial records of Home Kare, Inc. in your capacity as Traveler's auditor? When? Was the audit completed?
5. What were the findings of that audit?
6. Did you later represent Mrs. Souza in appealing the audit adjustment that you had made?
7. When were you first approached by Mrs. Souza regarding a position with Home Kare? What was the nature of this approach? What were you offered?
8. At the time, what were you making with the Traveler's Co.? What was your starting salary with Mrs. Souza? What is your current salary? Are there additional fringe benefits: life insurance, medical insurance, pension plan, expense accounts, country club membership? Any others?
9. What kind of car do you currently drive? How long have you owned it? When and how was the car purchased? You were still working for the Traveler's Company at the time the car was purchased? How much time elapsed between

your purchase of the Mercedes and the commencement of your employment with Home Kare? What kind of car were you driving previously? Do any of Mrs. Souza's corporations pay for the title, tax, insurance, or other expenses involved with the ownership or operation of this car? Do you drive this car only in the course of corporate business, or is it used for personal reasons as well? Do you own any other cars yourself? What kind?

10. With which corporation or corporations owned or operated by Mrs. Souza are you employed? Which corporations actually pay your salary? Do you do any work for any of the other Souza corporations? What proportion of your time is allotted to these services? Do you receive any additional compensation for work done for sister corporations?

11. Have you ever backdated any adjusting journal entries during the time period August 1976 through March 1977? Was it on your own initiative, or were you directed to backdate such entries?

12. Did you ever pad your personal expense account?

13. Were you ever told by Mrs. Souza or other Home Kare employees or staff to alter expense records?

14. Did you ever receive any instruction in the preparation of false expense records? From whom?

15. Did you ever manufacture false expenses to cover jewels or other gifts purchased by Ralph Zezza of others on behalf of Flora Souza?

16. Did you ever instruct Jackie Harvey or any other bookkeeper or Home Kare employee to falsify records of the corporation? Padding? Double billing, etc.?

17. Was it your idea to purchase furniture through The Showcase and then re-sell it at a higher price to Home Kare? Whose idea was it?

18. Were you aware that three of Souza's corporations were paying rent for storage space in Mrs. Souza's garage? Was that your idea? Whose was it?

19. What, if anything was actually stored in that garage?

20. Have you ever solicited kickbacks, rebates or other financial consideration from vendors, suppliers, or patients? Has Mrs. Souza?

21. Did it ever enter your mind that any of the activities you were engaged in were against the law?

22. Did Home Kare ever bill different Souza corporations for the same patient visit?

23. To your knowledge, have any of Mrs. Souza's corporations billed for services not rendered? Have they double billed? Have they billed for services not covered under the appropriate titles of the Social Security Act?

24. As one who has seen the program from both the intermediary and the provider end, do you think the controls on these programs are adequate?

25. What payments does Home Kare make to physicians? For what services? Are the payments commensurate with the services being provided by these doctors to the corporation?

26. Does Home Kare pay referral fees to physicians? What about paying hospital social workers and discharge planners for referring patients. On what basis are these payments made? And how much were they?

27. Does Home Kare provide a free discharge planner for hospitals that would like the services of one?

28. What contributions do the Souza corporations make to political parties or individual candidates? What about other services or benefits offered?

29. Have any of the corporations made contributions to individuals in a position to award contracts for home health or homemaker/chore services? Is it a common practice in the industry?

30. Does Unicare have a competitive advantage in obtaining county contracts for homemaker/chore services under Title XX?

31. What proportion of expenses for other Souza corporations are channelled into Home Kare?

32. How many employees on Home Kare's payroll are spending part or all of their time working for Unicare or other Souza corporations? What about Kay Bradley? Was she a beautician in The Showcase who was being paid by Home Kare?

33. For what purpose did you visit John Markin in Washington, D.C. in August 1976? On whose direction?

34. Do you have any knowledge of the sale of Mrs. Souza's home at 1824 Catherine Street? Who bought it? What were the terms? Did Mrs. Souza loan the purchaser any money? How much?

35. Have you ever used the Recreational Vehicle for other than business purposes?
36. Do you know of any favors received by Mrs. Souza and/or her corporations from legislation, state officials, etc.? What about the bill mandating competitive bidding on Title XX contracts? Any favors from Department of Health officials?
37. What was the purpose of your October 1975 trip to Washington? Who accompanied you?
38. Who paid for the expenses of that Washington trip?
39. Are you aware of any other trips that Mrs. Souza took to New York, Boston, or Dallas?
40. Do you know of similar trips by other employees of Souza's corporations?
41. Does Home Kare now or have you and other employees charged Medicare one price for therapy or other services and pay the provider a lesser amount? Example: charge Medicare for $50 and pay the provider $35?

Senator CHURCH. In doing so I will ask, do you assert your constitutional rights against self-incrimination to each and all of these questions?

Mr. STEWART. Yes, I do.

Senator CHURCH. Very well, Mr. Stewart. You are excused from further testimony.

Mr. GERST. Senator Church, I wonder if I might be heard for a moment. My name is Robert Gerst.

Senator CHURCH. For what purpose?

Mr. GERST. To respond to several comments made this morning in regard to the information supplied to the committee and some of the information which made a false impression for the programmatic purposes in holding these hearings. I am greatly concerned about the fact that there has been testimony that has been given which would clearly suggest that these companies have been able to supply at the lowest cost in the State of California services under both medicare and under the title XX program.

My concern is that the wrong impression not be given to your joint committee in terms of the activities of the investor-owned industry that is participating through Mrs. Souza and her company. It has been clear from the testimony at least that has been given so far that there is no indication of any excess profit that has been made by these companies or the individuals. It is clear that both on the homemaker/chore services their costs are low and they have been able to compete with other companies that are higher and also in regard to the home health agency business that their costs are lower.

Senator CHURCH. Mr. Gerst, I don't want to be argumentative but I suggest that we don't know what the profits have been. We have not been able to get an answer to that question. Therefore, I cannot accept your statement that the profits are reasonable.

Mr. GERST. I was relying on Mr. Markin's statement or exhaustive analysis they have had approximately 800 hours. Eight hundred hours of investigator time on the case just from auditors alone. This is not the normal type of situation. The company has requested an opportunity to go through the normal process of having the 1975 cost report audit completed. They have been refused that opportunity. The work papers have been denied to them.

Travelers has been ready since December 22 to proceed, they have the cost report finalized. If there are adjustments that need to be made, they would be made and the company has indicated a willingness to do that. I am sorry that it has come to this particular personal aspect.

Senator CHURCH. Mr. Gerst, I think that the issues that you are now raising were the subject of correspondence between you and me prior to this hearing as a result of which the hearing was postponed, and a full record of the issues involved is contained I think in that correspondence. I wonder if it would not be saving the time of the committee if your letters and mine covering these points were incorporated in the record at this juncture.

Mr. GERST. Fine. Senator Church, I would be happy to have that done, including the one we have delivered today.

Senator CHURCH. All letters will be included [1] and I think they pretty well cover the issues to which you have referred.

Mr. GERST. The difficulty that I have, sir, is that we have at the present time approximately 2,500 employees that are working for these various companies of which about 650 are full time and many of them are those that are covered under the programs that are on welfare as actual visiting and participating in the program. If the 1975 audit is not completed and if, as the comment was suggested, there be some interruption in the PIP payments to the company, then those people will be out of work and the company will be forced into bankruptcy.

I think the committee should be cognizant of that fact and we are requesting at this time that they be given an opportunity to have a normal audit completed so that they will be given an opportunity to have adjustments proposed that Travelers has already found that need to be paid and then let's take a look at the amounts owed and what other things are needed. The point that I think is very important is that we have a copy of the letter that indicates that the Visiting Nurse Association in Santa Clara County is proposing to charge registered nursing visits at $30, speech therapy visits at $40 per visit.

What may happen is that this committee, because of some of the things that have come out, may take action that will promote excessive costs in the program; not reduce them by eliminating those proprietary organizations. We have a cost of $18 to $20 a visit and yet we are now trying to favor in effect organizations that are charging perhaps twice as much. I think someone has to take a look at this issue in a detached way because the issue of quality has not been negatively addressed by any witnesses. To the contrary, Mr. Keeley indicated that the people were dedicated individuals.

What I am concerned about is that misstatements regarding excessive utilization or the Markin law, if you will, that this company is overutilizing and there is no professional proof to that fact. On the contrary, every record that has been done by Travelers—and I am surprised they didn't indicate—Travelers has done a 100-percent audit of the claims of the service, the service of these patients, and they have not found there to be excessive utilization.

Senator CHURCH. We are not going to argue the case with you because you are not a sworn witness. I will take up with you as the attorney for Mrs. Souza and those you represent, the question you raise with respect to the completion of the audit. That is a legitimate question. Our purpose is not to harass your clients or to prevent them from receiving what is due them under the law. That can be taken up with

[1] See appendix 3, p. 965.

you directly by the members of the staff and the committee will address itself to that question, but I don't think that we should get involved in an argument of the merits of the case. I just listened to the testimony of the auditors who said very plainly that they never even questioned the need for the number of visitations and we had testimony earlier that the average charges per patient charged by your clients is well above average.

Mr. GERST. I don't believe that is accurate, Senator, as to what is said. Excuse me, but I don't think that is accurate.

Senator CHURCH. I think the record can speak for itself in these things. In any case you cannot because you are not a sworn witness and so I am not going to discuss the merits of the case with you. I don't think it is appropriate for you to argue the case with us. We will let the record speak for itself.

If there are no further questions, the hearings will take up again tomorrow morning at 10 o'clock in the main committee hearing room of the House of Representatives Ways and Means Committee.

[Whereupon, at 3:47 p.m., the committee recessed, to reconvene at 10 a.m., Wednesday, March 9, 1977.]

86-072 O - 77 - 8

APPENDIXES

Appendix 1

INVESTIGATIVE MEMORANDUM [1]

To: Senators Frank Church and Pete V. Domenici, Representatives Dan Rostenkowski and Sam Gibbons.
From: Val J. Halamandaris, associate counsel, Senate Committee on Aging and John Markin, investigator, Oversight Subcommittee, House Ways and Means.
Re: Investigation of Flora M. Souza and forthcoming hearings.

I. SUMMARY OF INVESTIGATION

Flora M. Souza is a California based provider of home health services participating in Title XVIII (Medicare), XIX (Medicaid) and Title XX (block grants to the States to provide social services for indigents; under the Social Security Act). She is one of the largest of such operators in California and the Nation; her yearly revenues are estimated at $7½ million. Our investigation disclosed that she has charged thousands of dollars to each of the above programs which are unrelated to patient care. There is a pattern of seeking and receiving duplicate reimbursement for such expenses which have no reasonable relationship to patient care. In addition, we have found examples of apparent fraud as detailed below.

The core of Mrs. Souza's operation is the corporation Home Kare, 95 percent of its expenses being reimbursed by Medicare. The object in Souza's dealings is to funnel as much of the overhead costs from her other corporations (Unicare, Flora M. Souza Physical Therapy, Inc., Ambi-Kare and The Showcase) through to Home Kare and hence to Medicare. In short, Medicare is paying for everything from the cost of operating a private beauty shop to lobbying. The results are several: (a) Souza can underbid almost anyone for Title XX homemaker/chore services contracts; (b) Souza aids some politicians, who aid her in obtaining more business; (c) Medicare supports her and her many relatives in an opulent style of life; (d) serious questions are raised about the quality of the services that are offered to the needy and (e) her ever increasing income and subsequent power seemingly lead to preferential treatment on the part of the Bureau of Health Insurance and Traveler's Insurance Company, the Intermediary charged with reviewing and paying Souza's claims.

IMPLICATIONS

1. There are few controls applicable to home health agencies participating in government health care programs. In Medicare, which spends $245 million for home health (slated to go to $563 million by fiscal year 1978), only 5 home health agencies have been referred to the Department of Justice for prosecution since the beginning of the program. While some $73 million will be paid to home health agencies from Medicaid this year, there has only been one home health agency participating in the Medicaid program audited by the HEW audit agency over the past five years.

2. A particular problem is apparent in those States which enact laws licensing home health agencies and permitting for-profit home health agencies to participate. Such licensure by the States is a necessary precondition to a for-profit home health agency's participation in either Medicare or Medicaid. Sixteen States have

[1] Senator Church, on page 862, made this memorandum a part of the official record.

enacted such laws and they are the scene of most of the problems we have learned about with respect to home health care. As a guess, about 75 percent of the 2,500 home health agencies participating in Medicare are non-profit.

3. Title XX is a program of direct government grants to the States to aid them in providing Social Services for indigents. Some 75 percent of the money is Federal; the States pay 25 percent. The Federal share of this program is currently $2.7 billion; counting the State share, the entire program costs about $3.4 billion a year. Approximately 10 percent of this amount or $340 million goes to pay for homemaker/chore services. Our experience indicates that there are no fiscal controls at all on this program. The States are simply left to their own devices. If Title XX can be taken as an example of what would happen should a block grant proposal replace Medicaid, we predict it will be an unmitigated disaster from the point of view of fiscal integrity.

II. BACKGROUND

On October 28, 1975, Senator Moss's Subcommittee on Long-Term Care conducted hearings on proposed HEW regulations which would allow for-profit home health agencies to participate in the Medical program. During this hearing substantial evidence was received concerning fraud and abuse in existing home health programs including Title 18 (Medicare), 19 (Medicaid) and Title 20 of the Social Security Act. (Title 20 is a program of Federal grants to the States to help them provide social services for the poor and near poor.) Some 47 States are using this money in part to provide homemaker/chore services or other in-home services. One of the home health providers who came to the Committee's attention was Flora M. Souza. (Details follow). Coincidentally, the House Ways and Means Committee Oversight Subcommittee, chaired by Representative Vanik, (now chaired by Representative Sam Gibbons) also discovered questionable cost which she presented to Medicare and started their own investigation. We learned of the Ways and Means inquiry through common informants. The Ways and Means staff suggested we work together.

III. THE ENTITIES

Mrs. Souza reportedly owns seven entities in California. She draws a salary and administrative expenses from three of them. She is, first, the sole owner and President of Home Kare, Inc., a licensed Medicare and Medicaid home health agency. This corporation has offices in San Francisco, Sacramento, San Luis Obispo, Downey, Santa Cruz, San Diego, Ventura and San Jose.

Mrs. Souza also owns Unicare, Inc., a California corporation licensed to provide home health care. It does not provide for Medicare or Medicaid patients, but deals in the private sector and has Title XX Homemaker Chore contracts in several counties in California, including Santa Clara, San Mateo, Ventura, San Luis Obispo, Humboldt, Tulare, Madera, Stanislaus.

She also owns a corporation known as Flora's Inc., doing business as "The Showcase." It is a beauty shop.

The remaining entities are: Flora M. Souza Physical Therapy, Inc., a Medicare/Medicaid licensed physical therapy provider; Allied Paramedical Training Institute, Inc., a company which trains home health and homemaker aides; Ambi-Kare, Inc., a freestanding outpatient clinic with a Medi-Cal (i.e., the California equivalent of Medicaid) and a Medicare provider number; and the Health Care Legislative Council, Inc., a lobbying organization.

A check of corporate records at the Secretary of State's office in Sacramento gave us some additional information on Allied Paramedical Training Institute. It was originally organized in December 1970 under the General Nonprofit Corporation Law of California. Seven months later, the corporation changed its name to Complete Health Care, Inc.; Allied Paramedical was then re-incorporated in April of 1972. Complete Health Care, Inc. amended its corporate charter on November 1, 1975, with the effect that the company began operating as a Health Maintenance Organization (HMO). Complete Health Care was suspended from doing further business in the State of California. No reason was listed. It appears from the amended purpose, though, that Complete Health Care, Inc., was operating as a for-profit corporation contrary to its charter. In any case, it does not seem to have been a voluntary dissolution.

On this score, Souza apparently approached the Santa Clara County Comprehensive Health Planning Association for permission or aid in organizing an HMO. She was turned down. Complete Health Care appears to have been an HMO that Souza wanted to help along by using one of her ongoing enterprises as its base.

As for Allied Paramedical, the auditors have not been able to find any business files.

IV. PRINCIPAL CHARACTERS

1. Flora Souza: The central figure in this study.
2. Fred Keeley: One of our prime informants and a former employee of Home Kare who testified at our October 28, 1975 hearings. Keeley did considerable work for Souza's lobbying organization while paid by Home Kare. He subsequently went to work for Souza's chief competitor, Peter Gottheiner.
3. Peter Gottheiner: Souza's principal business rival. He heads or has headed several home health agencies including California Coordinated Health Care, Health Help, and Visiting Home Services. Gottheiner's corporations have been awarded contracts in several States under circumstances that suggest less than open connections with State officials.
4. Mr. A.: A private consultant in the field of health care, who has had numerous business dealings with Souza both in this capacity and as a former nursing home administrator.
5. Mr. B.: Another source of information on Souza and her entities.
6. David Sylva: Souza's lawyer and business partner in many of her corporate ventures. He is Vice President of Home Kare, Unicare, and Allied Paramedical Training Institute, former Secretary and Treasurer of Complete Health Care, and an incorporating Director of the California Health Care Legislative Council, Inc.
7. Jack Stewart: Medicare Supervisory Auditor with the Traveler's Insurance Company team that audited Home Kare. In May of 1974, Stewart went to work for Souza.
8. Al Alquist: A California State Senator to whom Souza has connections. His wife was an employee of Home Kare in Sacramento, and a guest of Souza's on at least one of her frequent trips. He has handled legislation favorable to Souza.
9. Mai Alquist: Wife of the above. She was paid $1,815 by Home Kare, to help organize Souza's Sacramento office.
10. Dale Munroe: Medicare Manager of the Traveler's Los Angeles Office was hosted by Home Kare at several business luncheons in 1975.
11. Ray Kipp: Stewart's former boss at Traveler's.
12. Mike Powell: Former Medicare auditor of Stewart's Traveler's insurance "team". He now works for Souza.
13. Gary Paquet: A Claims Examiner in the Traveler's home office, now working for Souza.
14. Vivian Ascunsion: One of Souza's sisters. She receives $19,736 from Home Kare and $3,685 from Physical Therapy, Inc. and the use of a Cadillac leased through Unicare. (Until recently, she provided no services for Unicare).
15. Mildred Laptalo: Another Souza sister. She gets $14,000 and a leased Buick as the Home Kare bookkeeper.
16. Doug Laptalo: Son of the above. He gets a reported $14,000 from Home Kare.
17. Mary Hendry: Another Souza sister on the Home Kare payroll, at $15,000/year.
18. Sharon Jack: Souza's daughter. She is an officer of Home Kare, Unicare, PTI, Allied Paramedical, and a former officer of Complete Health Care. She receives a salary near $41,400 plus the use of a leased Cadillac.
19. Bob Jack: Husband of the above. He's also on Souza's payroll at $13,000 but spends much of his time working on her personal business.
20. Jerome Lackner: Director of the California State Department of Health. He is a long-time friend of Souza. (No evidence of improper influence found by investigators).
21. Edward Lackner: Brother of the above. A partner in Souza's Los Gatos medical building project, Lackner was President of a company that merged with Home Kare. He is a member of the Home Kare Advisory Board.
22. Lewis Lackner: Father of the other two Lackners. He is also on the Home Kare Advisory Board. He is a partner in the medical office building project.

V. ALLEGATIONS AND EVIDENCE

Investigation by the staff of the two committees has produced numerous facts with respect to allegations of fraud and abuse by Mrs. Souza. In so far as pos-

sible, the staff sought to validate these charges through a requested audit to be conducted by the Intermediary, Traveler's Insurance Company on behalf of the Bureau of Health Insurance. The staff next sought a more detailed audit and requested that the General Accounting Office conduct a review. For this purpose, auditors were assigned by GAO to the House Ways and Means Committee with whom we are cooperating. The allegations raised by witnesses and the evidence collected on each point follow:

A. Allegation: Souza has hired several of her relatives to fill positions at her corporations. Some of them have the salaries paid for by medicare, or have the use of leased automobiles.

1. Souza's sister, Vivian Ascunsion, receives $19,736 from Home Kare and $3,685 from Physical Therapy, Inc. In addition to this $23,421.61 salary she received a $5,200 deferred compensation payment from Unicare. At the same time she had the use of a Coupe de Ville Cadillac which was leased by Unicare at a cost of $294.17 a month. From October 1974 through November 1976 (the time of the Traveler's audit), Unicare paid for the car even though Ascunsion did no work for Unicare. Beginning in December 1976, Physical Therapy, Inc. assumed the lease payment. Significantly, the deferred compensation she received was from Unicare although she performed few if any services for Unicare.

2. Mildred Laptalo, another of Souza's sisters, receives $14,000 a year and a Buick for serving as a Home Kare bookkeeper.

3. Souza's nephew Doug Laptalo is paid $14,000 salary from Home Kare.

4. A third sister, Mary Hendry, receives $15,014 from Home Kare for her work as a bookkeeper.

5. Souza's daughter, Sharon Jack, draws salary and dividends from both Home Kare and Unicare; $19,781.59 from Home Kare and $23,600 from Unicare for a grand total of $43,381.59. Flora's son-in-law, Bob Jack, is paid $13,141.81 bringing the total to $56,523.40. On top of this the Jacks are reimbursed for many of their living expenses, plus they have the use of a Cadillac Seville leased by Unicare for $290.65 a month. N.B. as of September 1976, Sharon has been a full time student at San Josę State. Finally, Greg Jack, Souza's grandson, received $2,000 in dividends; he is a stockholder in Unicare.

6. In the fiscal year ending March 31, 1976, Flora Souza received $145,256 in compensation as follows: $50,956 from Home Kare, $38,000 from Unicare, $16,000 as a dividend from Unicare, $5,100 in deferred compensation from Unicare, $30,400 from Physical Therapy, Inc. and $4,800 in deferred compensation from Physical Therapy, Inc. To these amounts must be added the Mercedes 450 SLC, the $35,000 motor home and at least $25,000 in reimbursed expenses plus numerous personal purchases paid for with medicare funds.

B. Allegation: Souza charges many of her meals, transportation, and various and sundry personal expenses to Home Kare for which she is reimbursed by medicare

1. According to Keeley, costs for remodeling Souza's home were passed through Home Kare as "leased property improvements." Mr. A. claims that he was in the Home Kare offices with David Sylva (Souza's attorney) and Jack Stewart (Souza's head bookkeeper—see allegation C) while they discussed Souza's home. Stewart was insinuating that Souza wanted to write the costs off to Home Kare and Unicare.

(Still investigating. These amounts would be included in cost year ending March 31, 1977. Home Kare bookkeeper, Jackie Harvey says she remembers Home Kare checks being used to pay for wallpaper and it was general knowledge that Souza's home was being remodeled by one George Pezzolo, general contractor from Campbell, Calif. We are endeavoring to learn what he did, where, how much it cost, who paid for it and how, which accounts it was paid by. We have asked for a copy of his itemized billings for each month beginning April 1976.)

2. Mr. A. alleges that Souza's mother, Rose Travasso, had an attendant who was paid for by medicare. Investigation turned up the fact that Travasso did receive some service (amount unclear) but Souza claimed her mother as a bad debt in the amount of $20.41. The alleged date of service was January 1, 1974. Moreover, Souza claimed Lewis Lackner, father of California's Director of Health, as a bad debt in the amount of $27.24; the debt reportedly arose in June of 1970.

3. An October 1976 preliminary audit of Home Kare by the Traveler's Insurance Company, done at the request of the House Ways and Means Committee,

revealed that "significant travel expenses of Flora Souza were charged which are difficult to evaluate for their relationship to patient care activities. Charging Medicare for travel expenses of a State Senator, no name mentioned. Several trips were also reported to Las Vegas, Hawaii, Dallas, and Washington, D.C.

4. The October 4 status report on the Traveler's audit, March 31, 1975–76 showed that $17,500 was charged to Medicare for travel and entertainment expenses, of which $14,000 were Souza's. It appears these expenses were for Souza and Stewart, with no other allocations to any of her other business entities. Guests were apparently taken on these trips, including politicians (see Allegation V).

The exact amount of Souza's reimbursable expenses is not known. For the fiscal year ending March 31, 1976, GAO auditors documented at least $25,000 worth.

5. The audits confirm that Souza purchased a $22,524.30 Mercedes Benz, 450 SLC on January 18, 1974. The purchse was by Home Kare and thus the cost of the car plus about $3,000 in interest plus gas, insurance and related expenses are being paid for by medicare. The car is being depreciated over 4 years with an unrealistic zero salvage value.

Souza also purchased a $35,000 recreational vehicle on January 29, 1975 through Physical Therapy, Inc. Over the terms of the mortgage, the taxpayers will be paying $19,395 in interest. The vehicle is used largely by Souza as a pleasure vehicle. The way she planned to pay for the RV was to lease it to Home Kare for $25 a day and 25 cents per mile. Home Kare pays for the gas. For the fiscal year ending March 31, 1976 Home Kare was charged $7,301.40 for the use of the RV. If she kept that up she could finance the RV entirely out of Home Kare (Medicare) funds over 7 years.

We learned that Souza also has a driver for the RV. His salary from April 1. 1976 through December 31, 1976 was $8,000. The employee reportedly spends half of his time driving, the remainder on walking Souza's dog, running errands, filing etc.

Finally, on March 23, 1974, Home Kare purchased a $14,944 Mercedes 450 SL for Jack Stewart with interest cost of $1,888.62, 4-year depreciation and zero salvage value. More on this auto later and the reason it was purchased.

6. Keeley has provided a sworn statement that Jack Stewart prepared approximately $700 in dummy expense receipts at the 1975 Home Kare Christmas party. This amount plus $200 in cash raised from staff contributions was given to Ralph Zezza of the Paul Revere Life Insurance Co., who is a close acquaintance of Souza's and handles their pension plans. Reportedly, Zezza bought a $900 jade necklace and earring set for Souza at Fox Jewelers, St. Francis Hotel, San Francisco, Calif.

We documented another case in which a $138.45 purchase of jade earrings from Fox's St. Francis Jewelers was treated as a business expense and charged to Home Kare and thus to medicare. The BankAmericard statement had the notation that the $138.45 was for a dinner attended by Ralph Zezza, Dixie Porter, Sharon Jack, Bob Jack, Jack Stewart and David Sylva.

7. The Christmas party 1975 (and reported expenses) cost about $6,000. A 1975 Valentine's Day dinner cost $3,535.

8. Mr. V informed the subcommittee that the medical expenses for Souza's dog, Cherie, are written off to medicare through Home Kare. Mr. A. reports that Souza bought their dinner, and then ordered a $5.95 short rib dinner for Cherie. The whole thing was charged on American Express and likely to medicare through Home Kare. Mr. B. also asserts that Souza has purchased expensive food for her dog, also via American Express. (No verification)

9. Mr. A. says that wallpaper for Souza's home was paid for by checks which he believes were written on the Home Kare account. Jackie Harvey, bookkeeper with Home Kare confirms.

10. The Traveler's preliminary audit disclosed that oil paintings were purchased and written off to Home Kare which are in Souza's personal possession. The paintings could not be found on the business premises. In response to questions from the auditors, Stewart said the paintings were in a garage or in storage. (N.B. The garage is owned by Souza and was leased for $400 a month).

When GAO auditors arrived two paintings costing $345 and $325 were found on the premise. The garage owned by Souza had been rented as follows: Home Kare paid Souza $100 a month, PTI paid $100/month, and Unica paid her $200

a month. In short, Souza received $400 a month for the rental of her garage. If there are 400 square feet in the garage; thus Souza's rental was at the rate of $1.00 per square foot.

The rent was paid through February 1977. However, after the termination of the arrangement, Souza located a commercial storage space in the same general area at $.21 per square foot.

From January 1974 through March 1976, Souza received a total of $12,350 in rentals on her garage from medicare, medicaid and title XX.

11. The Traveler's audit shows excessive legal fees written off by Home Kare. In cost year 1975, $15,000 to $20,000 not ordinary and necessary or related to patient care was charged to Home Kare. In part, the expenses represent non-reimbursable corporate promotion and expansion activities.

12. The audit indicates that Souza took no vacation in 1972 but instead paid herself $3,000 for a month in lieu of any vacation.

13. Audit work also shows that Home Kare cost reports indicate that the corporation is asking medicare to pay $170,872 in reimbursable costs. This money is then turned over to Physical Therapy, Inc., supposedly for physical therapy services provided by the latter to Home Kare. It appears that much of this figure is for personal expenses, the depreciation of the recreational vehicle and other capitalized items.

14. Dale Munroe, a former Traveler's auditor now managing the Traveler's Los Angeles office, said that Home Kare business luncheon expenses for 1975 included approximately $240 for lunches at which Traveler's staff members were hosted.

15. The audit indicates that Souza makes frequent personal trips (with guests) to Newport Beach, Calif., in her motor home. Her guests, meals, lodging are all put on the Home Kare account. Asked about her stays at the Newporter Inn and rental of a two-bedroom suite and parlor, she says it was for discussion of business. She adds that she was in the course of visiting her Downey, Calif., Home Kare office. (N.B. The Newporter is 40 miles (a good hour) from her Downey office and there are many less expensive roadside motels where she could stay much closer to her office.)

16. Mr. A. has informed the Subcommittee that Souza wants to expand her business ventures into the State of Hawaii.

We verified that Souza did take a trip to Hawaii on November 2–8, 1975. Her companions were Dr. Edward Cahn and wife and Ralph Zezza. The cost of the Hawaii trip, $3,535 was passed on to Medicare.

17. With the intention of getting assistance or inside information, Souza has cultivated several HEW employees. She hired Sidney Sholl from HEW Secretary David Mathew's office. Ms. Sholl admits that while spending much time trying to get Souza new business from HEW she was being paid by Home Kare. Souza paid then HEW employee Dr. Dumas a $350.00 consulting fee and round trip air fare from Dallas to San Francisco. She paid Robert L. Howard, another HEW employee $168.30 to help prepare a Homemaker proposal for the State of Washington. She paid BHI employee, Al Fox, $139.37 for air travel to Denver/San Francisco and return.

18. Through her beauty shop Souza purchased a walnut desk for $393.00 in August 1975. Also in August of that year, she sold it to Home Kare for $583.00. Souza kept the difference and charged Medicare $583.00. She bought a half round for $640 through Home Kare. This desk is in the garage of Souza's personal residence. Similarly, Souza bought a leather sofa, chairs, etc. through the Showcase for $1,332 in August 1975. That same month she sold the goods to Home Kare for $1,914.00 keeping the difference and charging the $1,914.00 to Medicare. Similarly, she purchased a conference table and chairs for $2,433 through the Showcase, sold them to Home Kare for $3,893 keeping the difference and charging Medicare for $3,893.

19. Kaye Bradley, an employee of The Showcase (the beauty shop) was being paid by Home Kare and thus Medicare was paying for help in Flora's private beauty shop. GAO estimates $5,489 in overpayment. Jackie Harvey, the Home Kare bookkeeper spent about half her time working for The Showcase but her salary was entirely paid by Home Kare.

20. A purchase made at the Dockside Trading Company, Sacramento, California, a decorating and art gallery, totalling $170.20 was treated as a dinner expense and charged to the Home Kare "Promotion and Conference" account (Sacramento). The purchase was made on BankAmericard. A notation was made

to the effect that the expenditure was for the Home Kare Sacramento staff to discuss patient care.

21. Bookkeeper Jackie Harvey will testify that under Souza's orders or those of her daughter, Sharon Jack, she (Harvey) routinely processed phony dinner and other vouchers as a source for cash for Souza. We have evidence of double billings for real or imagined dinners. Even when such dinners were actually held, there is a gossamer connection to patient care. For example, out of 73 meals costing $4,324.95; 352 persons were served, 249 of which were Souza employees. In one bill, Souza charged Medicare/Home Kare $47.47 under the heading—business conferences and promotion. Said to be present were Flora, Mr. Duccini, Jack Stewart, Vivian Ascuncion, and Ralph Zezza. The purpose of the meal was to discuss the pension plan. In checking with the Senator Hotel (Sacramento) on the day in question, March 18, 1975, we learned that the real cost of the meal was $7.47 for the following items: 2 cheeseburgers, 1 beef sandwich, 1 hot dog, 3 cokes TO GO. The bill was clearly altered, was paid by Home Kare, an expense check being deposited in Souza's account.

C. Allegation: Souza "bought off" the auditor who was conducting Traveler's examination of the Home Kare account

1. Keeley reports that in the Spring of 1974, Jack Stewart was conducting an audit of Home Kare for Traveler's. At that time, he wrote to Souza to inform her that some of her salary claims would be disallowed as being above "reasonable costs" based on surveys of similar agencies in the San Francisco area. Shortly thereafter, Stewart appeared in the record as an employee of Souza (Home Kare Controller) assigned to defend her interests in the matter of her salary. Mr. A. says the salary issue centered around Home Kare cost reports for 1972–74. Bureau of Health Insurance and/or Traveler's (whoever has ultimate jurisdiction on the subject of reimbursement) decided against Souza. However, the decision was reversed after a Home Kare representative appeared in Baltimore to plead Souza's case. Apparently, the representative was Stewart himself. Keeley says the bait used to lure Stewart away was a Mercedes, a fat expense account and a generous salary.

The audits confirm that Stewart is paid $43,000.00 a year, has an expense account and that a Mercedes sport car was purchased for him by Home Kare. He purchased the $14,944.70 car on March 23, 1976 from Carwell Motors in his residence of Hermosa Beach, California putting $500 down. On March 28, 1974, an identical purchase order was made out in the name of Home Kare. He gave his notice to Traveler's on April 1; his last day there was April 27, 1974. He began work with Souza on May 4, 1974. Traveler's employees report Stewart drove the Mercedes to work during later March or early April.

2. Traveler's Auditors stated that several airline charge tickets were signed F. Souza. We have no explanation to this date. We found that Stewart had in fact used Souza's PSA Airlines charge card.

3. Two other Traveler's employees were hired by Souza. They are Mike Powell, an auditor on Stewart's team in the Los Angeles office and Gary Paquet, a claims examiner from the company's home office in Hartford, Connecticut. No details on the terms of the employment.

4. Mr. A. reported that someone at Traveler's was helping Souza hide costs. He gave that information to BHI (the Bureau of Health Insurance) in 1972. We talked with several people, all of whom denied the allegation.

D. Allegation: Souza pays kickbacks and covers them by "employing" nursing home workers on the Physical Therapy, Inc. staff

1. Ms. C., a registered nurse and former administrator of "X" Hospital, said in 1970 that Souza offered her kickbacks of 35%. There is confirmation of this offer in Bureau of Health Insurance files on Home Kare. Ms. C.'s complaint supposedly went to the BHI Program Integrity Unit and then to the Los Angeles office of Traveler's Insurance, the fiscal intermediary.

2. Mr. A., who has had numerous dealings with Souza, reports that Souza pays kickbacks to Empress Convalescent Hospital, 1290 Bascom Avenue in San Jose. The Administrator there is Mrs. Jan Spangler. (No verification)

3. An informant says the administrator at Conlee Convalescent Hospital, 101 Bermel Avenue in San Jose, used to receive a check each month for 10% of the Medicare billings for services rendered by Home Kare. He "reported" this to Medicare in 1972.

4. Mr. B. alleges that Souza pays kickbacks to Post Convalescent Hospital in San Francisco. (No verification)

5. An informant told us that a speech therapist informed her that he was giving Souza a kickback. Records show Souza billing David Gitin's visits at $33 each and paying Gitin $30, keeping the $3 differential. Souza offers the explanation that this was a bookkeeping error.

E. Allegation: Souza has connections to and influence with a number of political officials both on the State and Federal level

1. Keeley told us several months ago that Souza has an "in" with the Director of the California State Department of Health, Jerome Lackner. The "in" reportedly came from the fact that Lackner's father, Lewis, and brother, Edward, are on the Advisory Board of Home Kare. By way of confirmation, State corporation records show that Lackner's brother was the president of a corporation that merged with Home Kare. Kuhns also reports Ed Lackner on the Home Kare Board.

Comment.—The Lackners are on the Home Kare Advisory Board; it is said they are paid $50. plus expenses for many meetings they attend. There is no direct evidence of Jerome Lackner's financial involvement or that he has done favors for Souza.

2. Keeley and Mr. B. both have information that Lackner's father and brother are in partnership with Souza to construct a medical building in Los Gatos next to the Good Samaritan Hospital. (Verified)

3. Ms. C., who has worked as a nurse for Souza for four months, claims she went with Souza to Jerome Lackner's house. She claims the relationship is longstanding.

4. According to Keeley and Mr. A., Souza claims she can always arrange a meeting with Jerome Lackner within 48 hours.

5. Souza has influence with a number of State Legislators. For example Al Alquist handled legislation favorable to Souza (Souza was a Licensed Physical Therapist. She was not accepted as a Registered Physical Therapist (RPT). The Alquist legislation had the effect of grandfathering Souza in as an RPT.) Mai Alquist, wife of the State Senator was on the payroll of the Sacramento office, receiving $1,815. The auditors are satisfied she did work. She also accompanied Flora on an October 1975 trip to Washington, D.C. paid for by Home Kare and Medicare. Souza also sold her home at 1824 Catherine Street, Santa Clara to Senator Alquist.

In our investigation, we confirm that Souza did own the home and did convey it to Alquist. We are not sure of the financial arrangements.

6. Souza also seems to have a connection at the Bureau of Health Insurance in Baltimore. Ms. C. (see allegation A, No. 2) reported Souza for kickbacks to Bureau of Health Insurance as much as 6 years ago but little was done. More recently, Souza knew of the findings of the Traveler's auditors immediately. She also knew what informants, i.e. Keeley, had said to the Bureau of Health Insurance. Mr. Y. is one name that we kept hearing from informed individuals. He has been seen in Souza's company on many occasions. We identified telephone calls from Souza's office to Mr. Y. in Baltimore.

Keeley met with representatives of BHI in Baltimore on September 7, 1976. Shortly after the interview Keeley met Stewart at a meeting of the Fresno county board of supervisors on a Tuesday in September. Stewart told him he had heard Keeley had talked to BHI, and said that Souza was upset about it. Stewart said, "A lot of things you may have told them we've already taken care of." Keeley says Stewart recounted the conversation with BHI so accurately that he was shocked. He feels that someone at BHI must have talked to Souza or Stewart in detail.

F. Allegation: Souza's lobbying organization, Health Care Legislative Council, Inc., is not registered with the State as required by law

1. Keeley reports the organizational meeting took place in May of 1975 in Ralph Zezza's penthouse in San Francisco with about 100 people attending. Among those present were Souza, Sylva, Keeley, Peter Gottheiner (Souza's principal competitor), representatives from Homemakers Upjohn (another home health provider), a physical therapist from Sacramento, and Edward and Lewis Lackner.

One source reports this meeting was billed as a meeting of the advisory board of Home Kare. It is likely that all were paid their $50 plus expenses. But this has not been verified. We know that no Home Kare business was conducted.

Keeley reports he soon became the prime mover in this corporation even though his expenses and salary were paid by Home Kare and charged to medicare.

2. Although he may deny it, it is clear that Keeley was engaged in lobbying from the first day he came to work for Souza. He was successful in having legislation passed in California which required competitive bidding for Homemaker/Chore Services contracts in California. The bill was innocently introduced by Assembly-woman Leona Egelund. The practical effect of the bill says Keeley is to limit the choice of Homemaker/Chore Service providers in California to Souza and Peter Gottheiner.

Souza claims Keeley was acting on his own. Keeley says he was doing what he was told. Both admit he was being paid almost entirely by Home Kare although he did little if any work for that corporation. Keeley says he wanted to register as a lobbyist but Flora refused to let him, knowing that if he did, she could no longer justify his salary out of Home Kare (medicare) funds.

G. Allegation: Home Kare has been the focal point for several financial shams

1. The Traveler's audit revealed that Souza had declared and expended salary bonuses for several Home Kare employees, though these bonuses had never been paid. According to 1975 cost reports for that entity, $11,000 in salaries were unsubstantiated by payroll records.

2. The same status report of the audit showed that pension plan payments were not made in accordance with the requirements of S. 15 of the Health Insurance Manual. The violation was seemingly a minor one, specifically a failure to make the payments (of $27,000) within 75 days of the year's end. However, we have subsequently learned from the auditors that the plan is approved by neither Traveler's nor the IRS, and that the interest from the payments reportedly goes directly back into the Home Kare bank account. In other words, the pension plan is really only paper—a sham—from the employees' point of view. One of the auditors has informed us that Souza's bank accepted approximately five checks for $20,000 with no payee listed. The checks seem to have been drawn on the Home Kare account and signed by Souza.

H. Allegation: Whenever possible, costs incurred by these corporations are funnelled through Home Kare to Medicare

1. Keeley told us that renovations for "The Showcase", a beauty shop owned by Souza, were charged to medicare by padding the Home Kare payroll. He said that Souza placed beauticians and manicurists on the payroll of Home Kare who were working at The Showcase. After the latter began to show a profit, she transferred them off the Home Kare payroll.

As late as March of 1976, Jackie Harvey, Home Kare bookkeeper, spent half of her time working on the books of The Showcase. Showcase beautician Kaye Bradley, was paid by Home Kare.

According to the October 4 status report on the Traveler's audit, Stewart provided auditors with a written statement that the beautician had provided "inservice education to home health aides on proper hair care." He added that she had been paid erroneously for two payroll periods in November 1975. Stewart said that when he discovered the error, he decided to bring it up with the auditors rather than file an amended cost report or make corrections on a subsequent cost report. However, he said nothing to the auditors until he noticed them studying that aspect of the payroll records. Stewart says that corroborating evidence may be obtained from a Mr. Hellman, Home Kare's accountant, in the Los Angeles firm of Temkin, Ziskir, Kahn and Matzner.

Both Traveler's and we discount Stewart's suggestion. Traveler's claims that Home Kare should not have paid and medicare should not have been charged some $5,400. Harvey admits she did work for The Showcase while being paid by Home Kare. Ms. Bradley's statement is contrary. [See appendix 5, page 972.]

2. On the subject of Home Kare employees doing work for other Souza entities, Mr. A. said that during an October 6 telephone conversation with Stewart, he was told that Stewart was going to Visalia, Calif., to take care of some business in the Unicare office there (reportedly he was going to fire some employees). Mr. A. was also told by Stewart that the latter had been down

there the previous week. However, all of Stewart's salary is paid by Home Kare, and there is no Home Kare in Visalia.

3. Keeley reported that all of his expenses in connection with the health care legislative council were paid by Home Kare. In his sworn affidavit he charges that Souza ordered him to manufacture dummy expenses to present for reimbursement from medicare but says he refused and referred Souza to Jack Stewart for this purpose.

4. Keeley told us that Unicare can bid low on title XX contracts by passing some of its costs on to medicare through Home Kare. Peter Gottheiner filed a lawsuit against Souza on precisely this issue (*Visiting Home Services* v. *Unicare* in the Santa Clara superior court, No. 348575). The suit was later dismissed by mutual agreement.

In its brief audit, the State of California found that this charge was accurate. The audit was conducted by the Division of Benefits Payments, State Health Department and completed in February of 1977.

5. The Traveler's audit shows that Home Kare has a dietician on its payroll although it supplies no meal services. Medicare does not cover such an expense, but the dietician's salary is reimbursed by title XVIII funds.

6. Payroll records include employees not seen by the auditors at their alleged places of business.

I. Allegation: The quality of the care delivered by Souza's concerns has been less than adequate

1. Alma Burnett of Santa Clara County was a client of Unicare, Inc. for over a year. She told committee investigators that during this period, "I received no care. I received destruction." Mrs. Burnett reported that her Unicare homemaker had intentionally tortured her by hitting a particularly sensitive spot on her back. When Mrs. Burnett would tearfully ask her to stop, the girl would respond that she had been told to rub Mrs. Burnett's back. The girl, Mrs. Burnett told us, would laugh the entire time.

Mrs. Burnett was entitled to 2 hours of care per day, 5 days per week. She reported that the Unicare aide often reported for work only two or three times during that week. Once, committee investigators were informed, the Unicare aide showed up at 9:30 on a Friday night to demand that Mrs. Burnett sign for a full 10 hours of service for the preceding week. According to Mrs. Burnett, the girl had been there only on Monday.

Mrs. Burnett said that Unicare's response to her complaints and pleas were varied from amusement to irritation. "So far as they were concerned, I was a charity case," she said. When she would complain about the homemaker's failure to keep scheduled appointments, Mrs. Burnett was told that she probably didn't remember visits.

Mrs. Burnett summarized her experience by telling committee investigators that she didn't believe she could have been treated as she had been unless Unicare management condoned what was being done. "If older persons, more ill, more senile, went through even one-third of what I did, may God forgive Unicare," she said. (N.B. Mrs. Burnett has provided the committee with a sworn affidavit).

2. Another Santa Clara resident, Mrs. Mary Jane Jorgenson, said she switched to home helpers because of the inconsistency of Unicare's services. She told committee staff that Unicare employees regularly left after one and three-quarter hours of service although she was entitled to 2 hours each session. Their explanation was that Unicare did not pay them for travel time and that they were instructed to take 15 minutes off at either end to travel from one client to the next. Like Mrs. Burnett, she had complaints about Unicare's attitude. She said it boiled down to: "You're getting this service for free, so quit complaining."

Mrs. Jorgenson also informed the committee investigators that the treatment she received was less than adequate. Although she was physically unable to get in and out of a bathtub, for example, the Unicare attendant kept insisting that she try. The aide finally complained that Mrs. Jorgenson was uncooperative.

3. Penelope Kavanaugh was formerly employed as a homehelper for Unicare. She told committee staff that she was hired without any inquiry into her background and experience. In fact, Mrs. Kavanaugh had previously aided an arthritic friend, and when she serviced a client suffering from arthritis, she was told that she was the first Unicare homehelper who had known how to lift

the client properly. Mrs. Kavanaugh was given her case load after only 4 hours of observation in the field, despite the fact that the Unicare employee manual specified 20 hours of homehelper training. Committee investigators were told that Mrs. Kavanaugh received no basic emergency training from Unicare, nor was she even informed as to her client's specific medical problems and needs. Mrs. Kavanaugh has provided the committee with a sworn affidavit.

4. Joan Hinckley worked as an Assistant Director of Nursing for Home Kare. She told committee staff that "A lot of what I wanted to see (in terms of services being delivered to clients) may have been in the manual, but it was not there in day-to-day practice." According to Hinckley, the philosophy of the organization was geared toward making visits—a minimum of 8 to 10 per day. Efforts to provide the staff with adequate training and guidance took a low priority, and although some of the staff nurses were quite good in Hinckley's opinion, it was with no thanks to Home Kare. Like Penelope Kavanaugh, Hinckley had grave doubts about the training provided to homehelpers and home health aides. Mrs. Hinckley has provided the committee with a sworn affidavit.

5. Dean Couris of Home Helpers told us that he received a number of phone calls from Unicare clients in Santa Clara County asking him to transfer their cases to his organization. All of them, he said, felt that the service was sporadic, and when Unicare aides did come, they often failed to do the jobs they were being paid to do. Mr. Couris has provided the committee with a sworn affidavit.

6. Suzanne Boyd, the Director of the Valley Home Health Service in Ventura County, told committee staff of three specific cases where individuals receiving home health services from her organization were simultaneously getting homemaker/chore services from Unicare. From a medical standpoint, she said, the service rendered by the latter organization was unacceptable. A client with dietary problems was fed meals of cold cuts and cheese by her Unicare aide; a woman with respiratory problems had to remove a source of dirt and dust from her home because the Unicare aide refused to perform the task; another woman with bladder incontinence had dried urine on her sheets and floor, because the Unicare employee assigned to her refused to clean. Mrs. Boyd stressed the fact that in her opinion, management was responsible. Aides had no supervision in providing proper patient care or in the psychology of dealing with client problems. The client told Miss Boyd that they had not seen a Unicare supervisor since the first visit.

VI. CHRONOLOGY OF INACTION BY THE BUREAU OF HEALTH INSURANCE

1970—Ms. C.'s administrator of "X" Hospital in Norwalk, Calif., reported to BHI that Souza offered her kickbacks of 35 percent. BHI Case File No. 91270 established but no action.

1972—Mr. A. says that on November 21, 1972, he told Bureau of Health Insurance that Souza was hiding expenses and that Mr. Q. of Travelers was helping her. Bureau of Health Insurance turned the matter over to none other than Mr. Q. himself at Travelers. The charge offered by Mr. A. against Mr. Q. was neither mentioned nor investigated. The BHI comment: The investigator said that on the basis of his previous relations with Mr. Q. he didn't believe Mr. A.'s allegations, so he dropped them. Mr. A. says no one ever got back in touch with him.

1974—In June, a year and one half after Mr. A. made his report, BHI called Mr. Q. at Travelers to see what progress had been made on Souza's 1970–71 cost reports which Mr. Q. had been auditing.

1976—BHI again opened a potential fraud case on May 27.

1976—In a July letter to Traveler's, BHI instructed the former to give Home Kare special attention, perhaps to do a fraud investigation.

1976—In September the House Ways and Means Committee called and requested a full scale audit along with a summary of all previous investigations. Over the objections of the House staff, BHI directed that the audit again be done by Traveler's.

1976—On September 7, Fred Keeley met with BHI representatives to discuss Souza and her operations.

1976—On September 8, Souza knew of Keeley's meeting. Someone at BHI gave either Stewart or Souza a detailed account of the conversation.

1976—On September 9, Traveler's finally commenced a full audit of Home Kare, 6 years after the first report of wrongdoing had come to BHI's attention.

1976—On October 1, Traveler's summarized their preliminary audit and only after a direct call to Mr. Thomas Tierney (BHI Chief) was the Ways and Means staff man given access to the findings. Those facts are included herein.
1976—December 9, 1976, Traveler's completed the audit requested by the Bureau of Health Insurance at the request of the House Ways and Means. Markin requested the audit work papers but Tierney refused to make them available. Chairman Vanik talked directly with Tierney, but Tierney still refused to give him the audit papers. He offered the workpapers with the names deleted, which, of course, would be of little use in the committee's investigations.
1976—December 17, 1976, Commissioner Cardwell responded formally to the Ways and Means request in a letter to Vanik (copy attached). He cited Section 1106(B)(d)(3) of the Social Security law in refusing to make the work papers available. This section of the law refers to disclosure of information in the possession of the Department of Health, Education and Welfare. This provision relates to HEW's official reports available to the State agencies operating the medicaid program. The entire section does not apply to Congress. According to the American Law Division, Library of Congress, this section does not give HEW/BHI any basis to deny this information to the Congress or to force congressional committees to accept this information with the names deleted (copy of the statute attached and marked).
1977—January 3, 1977, the committee authorized subpenas for several providers. In addition, Senator Church sent a letter to each committee member asking for concurrence in the issuance of a subpena to William Kenison, the Traveler's auditor who performed the audit at the request of BHI and the Ways and Means Committee. Our January 13 subpena was issued directing Kenison to bring with him all work papers for hearings originally scheduled for February 9.
1977—On or about February 14, Souza's lawyer filed a Freedom of Information request with the Bureau of Health Insurance, asking for all investigatory files re: Souza and her corporation. BHI turned over the audit summary which they had refused to give the committee. Moreover, they gave the lawyer a summary of all previous complaints re: Souza and what BHI did about them (It is unclear whether all names were deleted or not. If not, it will make it difficult for some informants who gave information concerning Souza to BHI). This information had been ignored for 7 years. (See attachment 1.)
1977—February 28, 1977, BHI now proposed to turn over all the Traveler's work papers to Souza and her attorney. A subpena for the work papers and Traveler's auditor William Kenison was authorized by the Senate Committee on Aging meeting in executive session.
1977—March 1, the subpenas were issued over the chairman's signature.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
SOCIAL SECURITY ADMINISTRATION,
Baltimore, Md., December 17, 1976.

Hon. CHARLES A. VANIK,
Chairman, Subcommittee on Oversight, Committee on Ways and Means, House of Representatives, Washington, D.C.

DEAR MR. VANIK: As you undoubtedly know, members of the staff of your Subcommittee have been maintaining a close working liaison for some time with staff members of the Bureau of Health Insurance with regard to fiscal audits presently being conducted into the affairs of a particular home health agency in California. The current audit is being conducted by the agency's intermediary, and the members of the Bureau's regional office staff have been securing update reports on the status of the audit on a current basis and these reports have been transmitted to your staff.

In your letter of December 8, 1976, you ask our assistance in not only making the audit workpapers available to your staff but also providing the names of particular individuals who may be identified in those workpapers. From the beginning, your staff was advised that the Bureau would cooperate in every way possible in providing not only reports but also the workpapers of the auditors, but that it would be necessary that the names of individuals be deleted from the copies supplied. This position was based upon our General Counsel's interpretation of section 1106(B)(d)(3) (see below) of the social se-

curity law which provides generally that the Secretary may not make available the names of patients, practitioners, or other individuals contained in reports on or evaluations of the performance of providers of services.

Tom Tierney, the Director of the Bureau of Health Insurance, has advised your staff that representatives of the General Counsel's office will be available to sit down with your legal counsel and examine that provision of the law if you find that desirable. He has also suggested that the staff's investigators review the copies of the workpapers with individual names deleted in order to determine whether or not those workpapers might suffice for their purposes, but I am advised that no such review has been undertaken to date.

Let me assure you once more, Mr. Chairman, that we continue to desire to cooperate in every possible way in your current investigations, but I am sure that you agree that in doing so we must observe the provisions of the legislation governing the disclosure of individual information. It is possible that if your staff can supply the Bureau of Health Insurance with the names of the persons about whom you may be concerned, specific answers might be made to questions which your staff might ask based on the Bureau's own investigation in your behalf and quite separate and apart from any audit report or workpapers. If this would be an appropriate alternative, please let me know.

Sincerely yours,

JAMES B. CARDWELL,
Commissioner of Social Security.

SOCIAL SECURITY ACT

DISCLOSURE OF INFORMATION IN POSSESSION OF DEPARTMENT

Sec. 1106. (a) No disclosure of any return or portion of a return (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act or under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, or under chapter 2 or 21 or, pursuant thereto, under subtitle F of the Internal Revenue Code of 1954, or under regulations made under authority thereof, which has been transmitted to the Secretary of Health, Education, and Welfare by the Commissioner of Internal Revenue, or of any file, record, report, or other paper, or any information, obtained at any time by the Secretary or by any officer or employee of the Department of Health, Education, and Welfare in the course of discharging the duties of the Secretary under this Act, and no disclosure of any such file, record, report, or other paper, or information, obtained at any time by any person from the Secretary or from any officer or employee of the Department of Health, Education, and Welfare, shall be made except as the Secretary may by regulations prescribe. Any person who shall violate any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding $1,000, or by imprisonment not exceeding one year, or both.[1]

(b) Requests for information, disclosure of which is authorized by regulations prescribed pursuant to subsection (a) of this section, and requests for services, may, subject to such limitations as may be prescribed by the Secretary to avoid undue interference with his functions under this Act, be complied with if the agency, person, or organization making the request agrees to pay for the information or services requested in such amount, if any (not exceeding the cost of furnishing the information or services), as may be determined by the Secretary. Payments for information or services furnished pursuant to this

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[1] Reorganization Plan No. 2 of 1949 (see p. 1197, vol. II) transferred to the Secretary of Labor certain duties and fuctions of the Federal Security Administrator (now the Secretary of Health, Education, and Welfare), with respect to employment services, unemployment compensation, and the Bureau of Employment Security (which was also transferred to the Department of Labor from the Federal Security Administration). Reorganization Plan No. 19 of 1950 (see p. 1199, vol. II) transferred the Bureau of Employees' Compensation from the Federal Security Administration (now the Department of Health, Education, and Welfare) to the Department of Labor and provided for the transfer from the Federal Security Administrator to the Secretary of Labor of certain functions and duties with respect to the Bureau of Employees' Compensation and with respect to employees' compensation, including workmen's compensation. In effect, with respect to these functions and duties, the provisions of this section of the Social Security Act also apply to the Secretary of Labor.

section shall be made in advance or by way of reimbursement, as may be requested by the Secretary, and shall be deposited in the Treasury as a special deposit to be used to reimburse the appropriations (including authorizations to make expenditures from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, the Federal Hospital Insurance Trust Fund, and the Federal Supplementary Medical Insurance Trust Fund) for the unit or units of the Department of Health, Education, and Welfare which furnished the information or services.

(c) (1) (A) Upon request (filed in accordance with paragraph (2) of this subsection) of any State or local agency participating in administration of the State plan approved under title I, X, XIV, XVI or XIX, or part A of title IV, or participating in the administration of any other State or local public assistance program, for the most recent address of any individual included in the files of the Department of Health, Education, and Welfare maintained pursuant to section 205, the Secretary shall furnish such address, or the address of the most recent employer, or both, if such agency certifies that—

(i) an order has been issued by a court of competent jurisdiction against such individual for the support and maintenance of his child or children who are under the age of 16 in destitute or necessitous circumstances,

(ii) such child or children are applicants for or recipients of assistance available under such a plan or program,

(iii) such agency has attempted without success to secure such information from all other sources reasonably available to it, and

(iv) such information is requested (for its own use, or on the request and for the use of the court which issued the order) for the purpose of obtaining such support and maintenance.

(B) If a request for the most recent address of any individual so included is filed (in accordance with paragraph (2) of this subsection) by a court having jurisdiction to issue orders or entertain petitions against individuals for the support and maintenance of their children, the Secretary shall furnish such address, or the address of the individual's most recent employer, or both, for the use of the court (and for no other purpose) in issuing or determining whether to issue such an order against such individual or in determining (in the event such individual is not within the jurisdiction of the court) the court to which a petition for support and maintenance against such individual should be forwarded under any reciprocal arrangements with other States to obtain or improve court orders for support, if the court certifies that the information is requested for such use.

(2) A request under paragraph (1) shall be filed in such manner and form as the Secretary may prescribe (and, in the case of a request under paragraph (1) (A), shall be accompanied by a certified copy of the order referred to in clauses (i) and (iv) thereof).

(3) The penalties provided in the second sentence of subsection (a) shall apply with respect to use of information provided under paragraph (1) of this subsection except for the purpose authorized by subparagraph (A) (iv) or (B) thereof.

(4) The Secretary, in such cases and to such extent as he may prescribe in accordance with regulations, may require payment for the cost of information provided under paragraph (1); and the provisions of the second sentence of subsection (b) shall apply also with respect to payment under this paragraph.

(d) Notwithstanding any other provision of this section the Secretary shall make available to each State agency operating a program under title XIX and shall, subject to the limitations contained in subsection (e), make available for public inspection in readily accessible form and fashion, the following official reports (not including, however, references to any internal tolerance rules and practices that may be contained therein, internal working papers or other informal memoranda) dealing with the operation of the health programs established by titles XVIII and XIX—

(1) individual contractor performance reviews and other formal evaluations of the performance of carriers, intermediaries, and State agencies, including the reports of follow-up reviews;

(2) comparative evaluations of the performance of such contractors, including comparisons of either overall performance or of any particular aspects of contractor operation; and

(3) program validation survey reports and other formal evaluations of the performance of providers of services, including the reports of follow-up reviews, except that such reports shall not identify individual patients, individual health care practitioners, or other individuals.[1]

(e) No report described in subsection (d) shall be made public by the Secretary or the State title XIX agency until the contractor or provider of services whose performance is being evaluated has had a reasonable opportunity (not exceeding 60 days) to review such report and to offer comments pertinent parts of which may be incorporated in the public report; nor shall the Secretary be required to include in any such report information with respect to any deficiency (or improper practices or procedures) which is known by the Secretary to have been fully corrected, within 60 days of the date such deficiency was first brought to the attention of such contractor or provider of services, as the case may be.[1]

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[1] P.L. 92-603, sec. 249C(a), added sec. 1106(d) and (e). Applicable to reports completed by the Secretary after January 1973.

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NO. WDS. – CL. OF SVC.	PD. OR COLL.	CASH NO.	CHARGE TO THE ACCOUNT OF	THIS MESSAGE WILL BE SENT AS A TELEGRAM UNLESS IT IS OTHERWISE INDICATED.	PRESS DPR	PRESS NPR	OVER NIGHT TELEGRAM
			GWA 078977				

Send the following message, subject to the Telegraph Company's conditions, rules and regulations, which are on file with regulatory authorities.

February 28, 1977

The Honorable Joseph Califano
Secretary
Department of Health, Education
and Welfare
Washington, D.C. 20201

Dear Mr. Secretary:

On September 1, 1976, the House Ways and Means Committee requested that the Bureau of Health Insurance conduct a full-scale audit of Home Kare, Inc., Campbell, California and related corporations owned by Flora M. Souza. BHI assigned this work to Traveler's Insurance Company, the fiscal Intermediary in that area.

On October 6, a copy of the preliminary audit findings was given to the House Ways and Means Committee staff after repeated calls to Mr. Tierney by the staff. In December 1976, the audit was completed but BHI refused to allow staff from both the Ways and Means Committee or the Senate Committee on Aging to review these work papers.

Commissioner Cardwell formally responded to Congressman Vanik on December 17, relying upon section 1106(B)(d)(3) of the Social Security Act to prohibit this disclosure. It does not seem to me that this section applies to Congress. It does not, in my opinion, give BHI or HEW any basis to deny the work papers to the Congress. Nor does it require HEW to delete all names from the papers before providing them to Congress. These papers would be of little value for the Committee on Aging's investigation without the names of the parties involved and other relevant details.

It is my understanding that the Social Security Administration plans to release the entire work papers to Flora M. Souza and her attorney under the provisions of the Freedom of Information Act. I request that no action be taken on the disposition of the audit work papers until you have given the Committee on Aging and the House Ways and Means Committee a written report of what action the Department plans to take concerning this matter and the reasons for doing so.

With best wishes,

Sincerely,

Frank Church, Chairman
U.S. Senate Special Committee on Aging

CC: Honorable James B. Cardwell
Mr. Thomas M. Tierney

WU 1211 (Rl-70)

ATTACHMENT 1.—INFORMATION RELEASED TO FLORA SOUZA AND HER ATTORNEY BY HEW UNDER THE FREEDOM OF INFORMATION ACT[1]

SUMMARY OF HIRO INVESTIGATION OF HOME KARE, INC.

I. Suspects

Home Kare, Inc., Ambicare, Inc., and Unicare Inc., are corporations receiving federal funds operating in California. Their headquarters office is in San Jose. Their chief executive and principal owner is Flora Souza. These companies are three of several owned and operated by Mrs. Souza out of her San Jose office. Besides Mrs. Souza, other possible suspects include her chief financial officer Jack Stewart, who also works out of the San Jose office.

The known activities of the Souza owned companies are as follows:

Home Kare, Inc.—A chain of proprietary home health agencies located in San Jose, San Francisco, Santa Cruz, Downey, Tustin, Sacramento, South Lake Tahoe, San Luis Obispo, San Diego and Ventura. All are Medicare certified and serve Medicare patients almost exclusively.

Unicare, Inc.—The state's largest privately held homemaker—choreworker business, provides home chore and hygiene services under Title XX of the Social Security Act. Also provides home health nursing care to private and third party payer patients other than Medicare (who are served by Home Kare, Inc.) This chain has offices in most of the Home Kare field offices.

Physical Therapy, Inc.—A corporation which furnishes physical therapy and occupational therapy on a contracted basis. Medicare reimburses those occupational therapy and physical therapy costs incurred in rendering services to the Medicare patients at Home Kare. Physical Therapy, Inc., costs are included on Home Kare's Medicare cost reports.

Ambicare, Inc.—An outpatient rehabilitation clinic which opened January 1, 1975. Serves both Medicare and other patients. Submits cost reports to Medicare for reimbursement.

Flora's Inc.—Operates "The Showcase", a dress shop and beauty salon located in San Jose.

Allied Paramedical Institute, Inc.—Trains home Health aids for subsequent employment by other Souza corporations.

II. Source of fraud allegation

Although we have had previous Home Kare cases (summary attached) our current program integrity investigation of Home Kare was initiated based upon a discussion which we believe took place in April 1976 between an official of the Bureau of Health Insurance ———. The informant was ————. We were told that the informant alleged that Flora Souza was (1) charging the costs of her Mercedes automobile in her provider cost reports, (2) hiding the costs of a non-provider beauty shop business in the provider cost reports, and (3) drawing an outlandish salary from Medicare when all of her payments from all agencies were lumped together. Based upon these allegations, a potential fraud Case was opened May 27, 1976.

The Travelers Insurance Company is the fiscal intermediary for all Home Kare providers. On July 9, we sent them a letter noting the allegations we had received and requesting any information they might have developed on these matters. On July 16, Dale Munroe, Travelers Los Angeles Manager, contacted us. He said that an audit of the 1975 and 1976 Home Kare providers was scheduled for September and that their audits would include tests to determine the validity of the allegations made. At that time, he acknowledged that (1) he was aware of the use of Mercedes autos and that their cost would be evaluated from a prudent buyer standpoint; (2) he knew that Flora Souza had opened a beauty shop and (3) owners compensation had been the subject of an appeal from the prior audit based on Traveler's disallowance of a portion of the salary paid.

Mr. Munroe confirmed the Travelers commitment to a September audit in a letter dated July 22. During a visit to Travelers on August 24, 1976, Senior Part A PI Specialist Mike Piazza discussed the upcoming audit and the types of audit tests to be performed with Travelers staff.

On September 2, 1976, House Ways and Means Oversight Subcommittee Investigator John Markin contacted P.E. Branch Program Officer, Roy Nilsson to inquire if Home Kare was among our pending P.I. cases. Roy acknowledged that it was, and informed Mr. Markin of the general nature of the allegations and the scheduled Travelers audit. On September 3, Mike Piazza contacted Mr.

[1] Reprinted exactly as released.

Markin and supplied additional details on the audit plans. During their discussion, Mr. Markin noted that he was concerned over several apparent high cost line items in the cost reports submitted by Home Kare. Specifically, he mentioned business conferences, travel, and auto expense costs. He also expressed concern over the relationship between Travelers and Home Kare, and specifically noted that the controller for Home Kare, Jack Stewart, is a former Travelers' auditor. (A second former Traveler's auditor, Michael Powell, is also currently employed by Home Kare.) Mr. Markin stated to Mike that he would be calling Mr. Tierney's office to request an independent third party audit of Home Kare. After considerable discussion between ourselves, Traveler's executives, Jim Williamson, and Mr. Tierney, it was agreed that Travelers would perform the audit with close monitoring and review by R.O. Program Integrity Staff. The audit opening conference was held Thursday, September 8. At our instructions the field audit was terminated December 10, due to the nature of the audit findings and our decision to begin a preliminary investigation.

At the same time as the Travelers Medicare audit of Home Kare, the State of California has been reviewing the activities of Unicare. Unicare activities are funded to a substantial degree by Social Security Title XX funds which are administered by the State of California and by county governments. According to Stu Manley, director of Medi-Cal Audits in Sacramento, this audit was prompted by a growing concern over possible excessive profits granted to home health agencies with Title XX contracts with California counties. These contracts are awarded on a competitive bid basis as opposed to the Medicare Title XVIII reasonable cost reimbursement method.

III. Potential for fraudulent acts against Federal Government

Audit and investigative findings, as well as other allegations of which we are aware, indicate that false Title XVIII Medicare cost reports and possibly false Title XX contract bids may have been submitted by companies controlled by Mrs. Souza, namely Home Kare, Inc., and Unicare, Inc. Federal statutes applicable to such false filings include the following:

18 U.S.C. 1001—False Statements or Entries.
42 U.S.C. 1395nn—False Statements.
18 U.S.C. 287—Fictitious or Fraudulent Claims.
18 U.S.C. 286, 371—Conspiracy to Defraud.
31 U.S.C. 231—False Claims.
18 U.S.C. 641—Theft of Government Funds.

With respect to cost reports filed by Home Kare, Inc., a detailed audit was performed by Travelers auditors of the Provider's 1975 cost $1.2 million in Medicare related expenses report at our request. The audit has disclosed that: (1) apparent personal items were paid for with Home Kare funds and claimed for Medicare reimbursement in the cost report; (2) general administrative expenses applicable to all Souza companies may have been disproportionately overallocated to Home Kare (which is reimbursed on a cost reimbursement basis) and under allocated to Unicare (which is reimbursed on a contract basis awarded by county governments following a competitive bidding procedure); (3) expenses which would not be incurred by a "prudent buyer" were incurred and charged to Medicare; (4) miscellaneous revenues received by the provider were not properly reported and offset against expenses charged to Medicare. In addition, we have learned that the House Ways and Means Oversight Subcommittee has contacted a witness who is willing to testify that kickbacks for patient referrals have been paid by the provider.

Specific examples of the audit findings include the following:

Furnishings such as custom cabinets, brass beds, leather chairs, oil paintings, etc., costing in excess of $5,000.00 were charged to the cost report but cannot be located on Home Kare office premises.

A $393.00 check for men's furnishing was charged to office supplies expense.

At least $3,700.00 in salary payments was paid to a beautician who apparently worked at Flora's Inc., a boutique and beauty salon.

All costs of the non-profit Souza corporation, Allied Paramedical Institute, were charged to the Home Kare cost report. Jack Stewart's contention that the Institute trained aids for Home Kare only, is somewhat doubtful in view of the possibility that at least some aids were trained for Unicare, and in view of Stewart's refusal to provide records of trainees.

Financial records of Unicare and Flora's Inc., which are necessary to determine if executive and administrative salaries, travel expenses, and other items have been properly accounted for, have been denied to Travelers.

Mrs. Souza has charged apparent extravagant travel and entertainment ex-expense amount items to Medicare; some of the items appear to be of a personal nature.

Home Kare maintains two Mercedes Benz autos as company cars for Souza and Stewart. The cost of the cars was depreciated over only four years, with no salvage value and no allocation for personal use.

A $1,000.00 payment was made to a Dr. Walter Berger and charged to office supplies expense. Although Mr. Stewart commented that this individual was the medical director of Home Kare, no supporting evidence of this statement can be found.

Consulting fees of at least $600.00 were paid to Mai Alquist wife of an influential State Senator.

$5,736.00 bad debts from coinsurance for privately insured patients was charged on the cost report as reimbursable Medicare beneficiary bad debts.

IV. Additional Investigation Needed

The development of this case to date indicates a problem situation which involves more than Medicare Title XVIII funds. The Souza enterprises are an example of multiple home health agencies sharing common sites, with Home Kare serving Medicare beneficiaries, and Unicare serving private patients as well as Title XX beneficiaries. A potential for at least three kinds of abuse exists in this type of situation:

Title XX contracts are obtained through low bids submited to county governments. Low bids are enabled due to under-allocation of expenses shared with Medicare certified providers. Once the contracts are obtained a source of patients is obtained which is also used to build up the Medicare census of the Medicare certified agency.

Shared expenses underallocated to Title XX agencies are overallocated to Medicare certified agencies and thereby reimbursed by Medicare.

Possible double billing of visits to both Title XVIII and Title XX. To fully evaluate whether any of these abuses are occurring in the Home Kare situation requires access to all books and records of the Souza companies. The Travelers auditors have been granted access to all company records except Unicare and Floras' Inc., which have been specifically denied to them. The State of California Department of Health auditors have been reviewing Unicare records.

Since Home Kare opened its doors in 1970, several million dollars has been paid to the company by Travelers. A detailed audit of $1.2 million relating to 1975 activities has been performed.

We have begun a preliminary investigation into some of the area relating to 1975 activities.

V. Other Pertinent Information

Six previous program integrity complaints have been received against Home Kare since 1970———A summary of the previous cases is attached.

Another aspect of this case is the employment of three former Traveler employees by Home Kare. Jack Stewart, the chief financial officer of Home Kare, was formerly employed by Travelers as a Medicare auditor. He was involved in audits of Home Kare cost reports prior to his resignation from Travelers. The current Travelers audit has turned up documentation that Stewart was given a Mercedes Benz auto, as a Home Kare company car, one month before he left Travelers employment and during a time period in which he was responsible for finalizing Home Kare audits. We are reviewing the audit workpapers of prior year limited scope audits to determine if any indications of improprieties by Stewart in his capacity as a Travelers employee can be found.

SUMMARY OF CLOSED P.I. CASES—HOME KARE, INC.

1. CASE NO. 91270

A program integrity case was opened on 9/4/70, on the basis of a complaint to the ——— district office by ——— (who asked to remain anonymous.) ——— reported that in ———.

A field visit was apparently made by an HIRO Program Integrity Specialist to interview———sometime in October, 1970. (No record of the results of this field visit is in the program integrity file.)

On October 30, the HIRO directed the Travelers Los Angeles field office to review Home Kare billings to ensure that they were valid, necessary, and reviewed by patients' physicians. We also requested an evaluation of the Provider's U/R committee from Travelers.

On December 30, 1970, Travelers representatives met with officials of Home Kare to discuss the agency's physical therapy arrangements.

———.

On January 16, 1971, the HIRO reported to the————District Office that Home Kare's claims underwent a 100 percent medical review during a period of time and that as a result of this review claim payment denial were issued. The memorandum concluded that as a result of these actions, we felt that if kickbacks had occurred they have now been satisfctorily stopped. The case was closed on January 18, 1971.

2. CASE NO. 92434–01

A program integrity case was opened on November 21, 1972, based upon a telephone call from———.

——— requested that ——— (name be kept confidential.) ——— called to report "flagrant abuse of Medicare cost reimbursement principles and fraud perpetrated by Flora Souza of Home Kare, Inc."

Specifically, he alleged that———.

On November 21, 1972, the HIRO telephone Travelers auditor Ray Kipp and discussed the allegation made by———. Mr. Kipp stated that he knew that Mrs. Souza's mother occupied a semi-detached house next to the home health agency, but there was no material reimbursement made for the living quarters. He also stated that he believed Mrs. Souza's salary was $25,000 per year, which was $4,000 less than the guidelines set up by BHI.———.

On November 30, 1972, HIRO staff met with Mr. Kipp to discuss the allegations further. It was noted that the Home Kare 1970 and 1971 cost reports were currently being audited.

On December 8, 1972, the HIRO directed that———allegations be looked into during the audit being conducted.

On December 18, 1972, Ray Kipp telephoned the HIRO and stated that the audits were not currently in progress, and that they would be held up until the HIRO had the opportunity to further interview the informant to get more specific information.

On June 29, 1974, the HIRO telephoned Ray Kipp to learn the outcome of the audit. The audit findings were discussed and according to Mr. Kipp "there is no way to verify allegations."

The case file was closed by the HIRO on December 8, 1974.

The P.I. Specialist assigned this case recalls that Mr. Kipp explained to him that———.

——— that the family members on the agency payroll performed necessary services for the agency, and that the Intermediary determined that the luxury autos were used for business purposes. The P.E. Program Officer also recalled the above, as well as the fact that an unsuccessful attempt was made to contact———for further information.

3. CASE NO. 92434–02

Mr. T. S. registered a complaint on August 6, 1973, to the Palo Alto district office. He protested the billing by Home Kare for two home health visits on October 27, 1972 and October 31, 1972.

Mr. S. alleged that on October 27, 1972 an individual came to his house to evaluate his wife's home situation. The individual obtained information from him about his wife's illness and explained the services offered by Home Kare. He decided that the services were inappropriate for their needs and declined the services. Several days later another person appeared who said she was there to perform health care services. He informed her that he had already refused these services and allowed her to call her office for verification. They informed her to get a receipt saying she had made the visit. He insisted, however, that she write across the receipt that "no services had been performed".

On August 22, 1973, the HIRO directed Travelers to investigate the complaint.

On November 2, 1973, Travelers replied that documents examined by them seem to show proper actions by Home Kare. We subsequently reviewed Home Kare's billing and documents furnished to us by Travelers.

Home Kare's bill included charges of $21.20 for one skilled nursing care visit and $19.40 for one home health aide visit. The release for services on October 27, 1972 was signed by T. S. and by Harriett Ichebachi, P.H.N. the release for the October 31, 1972 services is signed by T.S. and Doris E. Dockter (reg. #05638). This release states "no professional services attempted here except for washing her lightly by sponge upper area and brushing her hair. Mr. S., for some reason wanted me to write the statement on 1st line. Did light cleaning of room area." The physician's plan of treatment was signed by Dr. John H. Davis.

Mr. S. was informed of our findings and the case was closed on December 10, 1973.

4. CASE NO. 93686–01

On May 21, 1975, beneficiary H. S. complained that the charges by Home Kare for the services of a registered nurse were erroneous because the services were often rendered by nurses aides.

On June 24, 1975, the HIRO directed Travelers to review the complaint and to furnish any available information about prior complaints against the Provider.

On July 9, 1975, Travelers replied that Mr. S. received 8 home health visits between December 17, 1973 and January 21, 1974; he had an——— on November 25, 1973; his physician Edward Lackner, M.D. ordered home health care to assist with all instructions in ——— and report any changes to him; and that this activity was performed by a registered nurse.

The beneficiary was informed of this finding and our program integrity file was closed on July 23, 1975.

5. CASE NO. 93686–02

Beneficiary M. L. registered a complaint to the Santa Cruz, California district office, on May 25, 1975. Mrs. L. allegedly received an unsolicited visit from a Home Kare nurse offering free weekly services. She accepted the free service but after about five visits she discontinued the visits. She then received a bill for the Medicare deductible from Home Kare which prompted her contact with us.

On June 24, 1975, we directed Travelers to investigate the complaint. On July 9, 1975, they responded that Mrs. L. received 15 home health visits between December 19, 1974 and February 26, 1975; her diagnosis was ——— her physician, Dr. Calciano requested home health visits to stabilize ——— and that Mrs. L. was under the medical plan of Home Health and therefore was required to pay a deductible.

On July 30, 1975, we notified Mrs. L. that the services rendered to her were recommended by her physician because of her medical condition. The case was closed at the same time.

Mrs. L. responded on September 8, that she did not agree with our findings. She insisted that Home Kare "pushed" themselves on her and that her doctor had only recommended the visiting nurses association. Mrs. L. furnished a copy of a letter from Dr. Calciano's office stating that the doctor had recommended the Visiting Nurse Association for Mrs. L., that he did not directly recommend Home Kare, but did approve the orders for service.

No further HIRO investigation was pursued as a result of this additional information.

6. CASE NO. 93814–01

This case was opened on September 15, 1975, and closed September 29, 1975.

Beneficiary R. W. O. had contacted the Senior Citizens Legal Services office and brought with him an amended notice of service for payments under Part B of the Medicare program. The dates of service were for "January 9, 1975 through January 16, 1975". Mr. O. said he had NEVER used the service. At the bottom of the notice was the statement: "Home Health Visits Part B: 2".

The social security office contacted Mrs. O. (Mrs. O. was ———.) She wrote to explain that Home Kare did send out a nurse on January 9. Then on January 16 two nurses returned to check on Mr. O.'s progress. Since the notice read "January 9, 1975 thru January 16, 1975" the O.'s had assumed the bill was for continuous home health services. Actually Home Kare had only billed us for the two visits Mrs. O. described.

The case was therefore closed as no discrepancy existed between alleged services and the services billed by the HHA.

MEMORANDUM FOR FILE

Subject: Summary of Home Kare, Inc. findings documented in Travelers workpapers presented to BHI for review November 15–19.

During the week November 15–19 I reviewed the Travelers audit workpapers pertaining to the provider's 1975 costs included in their cost report. The following lists of apparent non-reimbursable expenses were prepared by me based upon my review of the audit workpapers and subsequent telephone discussions with on-site auditors.

_____ _____.

Attachments.

Comments	*Amount*
August 16, 1974 check to "London Bobby," a men's clothing store in Los Angeles. No invoice was available, amount was charged to office supplies	$393
Custom cabinets purchased from "R. G. Cabinets"; cabinets cannot be located on premises, and were documented on invoice as sold to Mr. and Mrs. Robert Jack. $600 charged to Home Kare and $850 to Physical Therapy, Inc	1,450
Payments to Robert Jack for construction of cabinets for Home Kare, Inc. Typewritten invoice supports payments	900, 1,100
Sofa/chair purchased by Physical Therapy, Inc. which cannot be located on premises (approximate)	2,000
Brass bed purchased by Physical Therapy, Inc. which cannot be located on premises (approximate)	1,600
Allegations that improvements to personal residence of Flora Souza were charged as leasehold improvements to Home Kare, Inc. Documents pertaining to leasehold improvements prior to 1975 were requested from provider but not furnished	[1]
Checks to Bob King Electric, San Jose, for replacement of circuit breaker and switch at 1904 E. Hamilton Drive, Souza's former residence	74, 85
This was amount paid to beautician Kaye Bradley by Home Kare, Inc., during CYE 3/31/75. Allegation that Ms. Bradley worked at least part time at related "Showcase" corroborated by Jack Stuart, although time period is unclear (same salary paid during CYE 1976). During CYE 1976 $5489 charged to C/R, although Stuart claims to have discussed with CPA need for Adjusting Journal Entry, which was made after C/R was submitted	3,721.40
Rental payments for office space partially used by Physical Therapy, Inc. charged to Home Kare, Inc. (In addition, a portion of Home Kare, Inc. administrative space should be charged as a home office expense to other providers)	[1]
Portions of salaries paid to Home Kare, Inc. executives performing services for related companies. (Books and records of related companies are needed to evaluate whether an appropriate administrative expense burden borne by related companies)	[1]
Travel and promotion expenses charged to H/K which should have been at least partially allocated to other businesses	[1]
Allied Paramedical Institute, Inc. Costs of training home health aids not employed by Home Kare. Separate accounting records not maintained, and lists of all aids requested but not furnished. These lists are necessary to determine how many aids were used by agencies other than Home Kare, and hence to allocate associated costs	[1]
Purchase of a refrigerator charged to Home Kare which is located in Ambicare premises	875.45
Miscellaneous payments to "Showcase" not yet analyzed by Travelers	[2]
Architectural fees for new building to be owned by partnership	175
Expenses of travel via luxury mobile home owned by Physical Therapy, Inc., and charged on a mileage and daily use basis to Home Kare, Inc. Also, depreciation expense and ownership costs charged to PT, Inc	[3]

[1] Unknown.
[2] Various.
[3] Not calculated.

Mercedes Benz autos used as "company cars"; depreciated over 4 years with no salvage value, rather than allowable 8 years with salvage value. Also, no allocation of auto cost for personal used and related company use made	[3]
Payment to insurance consultant Ralph Zezza. Services rendered appear to be of a nature ordinarily furnished without charge	750
$100 per month fee paid to Mrs. Souza for rental of her duplex garage. Needs to be evaluated for reasonableness	1,200
Legal fees paid to attorney David Sylva. Nonrelated fees were for (1) fees for a planned corporate reorganization, (2) and miscellaneous fees which were not explained by provider	5,103.93
Ad which properly pertained to Physical Therapy, Inc	65.00
Check to Dr. Walter J. Berger, M.D. January 16, 1975, charged to office supplies. Dr. Berger, supposedly was "Medical Director" of H/K Dawney	1,000
Portion of Home Kare, Inc. executive salaries and travel expenses for services performed which relate to business promotion/corporate expansion, and legislative lobby organization	[1]
Check to "Rusty Hammer" for preparation of discharge planning manual for hospital administration	60
Advertising expenses promoting an increase in patient utilization services and therefore not allowable, and charged to office supplies	299.50
Checks to "California Assn. for Health Services"	600
Consulting fees paid to Mai Alquist March 14, 1975. Contract effective January 1, 1975	600
Miscellaneous promotion expenses charged which were not related to patient care	[3]
Check for attendance of Fred Keeley at "Federal Procurement, and Foreign Trade Conference"	15
Revenues received from sale of medical and nursing supplies to other than patients not offset against costs	4,527
	14,080
Interest income which should be offset against interest expense	2,407
Income received from Medi-Cal for initial visit evaluations which should be offset against expenses	1,283
Workman's Compensation Refund which should be a reduction of costs	751
Bad debts for private insurance claimed as Medicare bad debts	5,736
Charged as petty cash expenses without documentation	431
Life insurance policy naming controller Jack Stewart as beneficiary	141
File cabinet which should have been capitalized rather than expensed	169.90
"Christmas-related" expenditures disallowed due to lack of documentation that gifts and party were employee related and thus a part of employee compensation as related to business promotion. Largest portion was $3,400.97 check to San Jose Hyatt for banquet. $1,700 check for Unicare not offset against this expense	5,936.07
Check to U.S. Government Superintendent of Document for subscription to Commerce Business Daily	63.50
Check for liquor supplies	21.42
Check for attendance at Fifth Annual Women's Business Dinner	30.00
Checks to "Zonta International"—a service organization of executive women in business and the professions	85.00
	437.50
Miscellaneous office furniture and equipment arbitrarily depreciated over 5 years lives rather than 5, 10, and 20 year lives, per AHA guidelines	[3]
Miscellaneous office equipment and furnishings fully expensed rather than capitalized	[3]

[1] Unknown.
[2] Various.
[3] Not calculated.

ATTACHMENT 2.--LEGISLATION INTRODUCED BY STATE SENATOR AL ALQUIST

SENATE BILL No. 828

Introduced by Senator Alquist

April 10, 1975

An act to amend Sections 2601, 2602, 2607, 2609, 2614, 2632, 2635.1, 2636.5, 2650, 2651, 2652, 2655.3, 2655.9, 2655.10, 2660, 2661, and 2672 of, and to add Section 2615 to, the Business and Professions Code, relating to physical therapy.

LEGISLATIVE COUNSEL'S DIGEST

SB 828, as introduced, Alquist. Physical Therapy Practice Act: administration.

(1) Under existing law the Board of Medical Examiners is responsible for enforcing and administering the various provisions of the Physical Therapy Practice Act, including, but not limited to, the authority to approve schools of physical therapy and to establish certain fees.

This bill would provide that the Physical Therapy Examining Committee, rather than the Board of Medical Examiners, would be responsible for enforcing and administering the various provisions of the Physical Therapy Practice Act, including, but not limited to, the authority to approve schools of physical therapy and to establish certain fees.

(2) Under existing law the Board of Medical Examiners is authorized to issue, suspend, and revoke licenses to practice physical therapy.

This bill would require, rather than authorize, upon the recommendation and direction of the Physical Therapy Examining Committee, the Board of Medical Examiners to issue, suspend, and revoke licenses to practice physical therapy.

(3) Under existing law the Physical Therapy Examining Committee is required to hear specified matters assigned to the committee by the Board of Medical Examiners.

This bill would delete the requirement that such matters be assigned to the committee by the Board of Medical Examin-

ers.

This bill would also require the Physical Therapy Examining Committee to adopt rules and regulations for purpose of administering the Physical Therapy Practice Act.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 2601 of the Business and Professions Code is amended to read:

2601. "Board" as used in this chapter means the Board of Medical Examiners of the State of California ~~which shall enforce and administer the provisions of this chapter~~.

SEC. 2. Section 2602 of the Business and Professions Code is amended to read:

2602. There is hereby created within the jurisdiction of the board, a Physical Therapy Examining Committee, hereinafter referred to as the examining committee *or committee. The examining committee shall enforce and administer the provisions of this chapter.*

SEC. 3. Section 2607 of the Business and Professions Code is amended to read:

2607. The ~~board~~ *examining committee* may employ, subject to law, such clerical assistants and, except as provided in Section 159.5, other employees as it may deem necessary to carry out its powers and duties.

SEC. 4. Section 2609 of the Business and Professions Code is amended to read:

2609. The board ~~may~~ *shall, upon the recommendation and direction of the examining committee,* issue, suspend, and revoke licenses to practice physical therapy as provided in this chapter.

SEC. 5. Section 2614 of the Business and Professions Code is amended to read:

2614. (a) The examining committee shall hear all matters ~~assigned to it by the board~~, including but not limited to, any contested case or any petition for reinstatement, restoration, or modification of probation.

Except as otherwise provided in this chapter, all such hearings shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. If a contested case is heard by the examining committee, the hearing officer who presided at the hearing shall be present during the committee's consideration of the case and, if requested, shall assist and advise the committee.

~~(b) At the conclusion of the hearing, the examining committee shall prepare a proposed decision in such form that it may be adopted by the board as the decision in the case, and shall transmit it to the board. The proposed decision shall be subject to the same procedure as the proposed decision of a hearing officer under subdivisions (b) and (c) of Section 11517 of the Government Code.~~ *board shall deny an application for, or suspend or revoke, or impose probationally conditions upon, a license as ordered by the committee in any decision made after hearing as provided in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.*

SEC. 6. Section 2615 is added to the Business and Professions Code, to read:

2615. The examining committee shall from time to time adopt such rules and regulations as may be necessary to effectuate the provisions of this chapter. In adopting rules and regulations the examining committee shall comply with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 7. Section 2632 of the Business and Professions Code is amended to read:

2632. All licenses for the practice of physical therapy in this state shall be issued by the board, *upon the recommendation and direction of the examining committee,* and all applications for such licenses shall be filed with the committee. Excepting as otherwise required by the director pursuant to Section 164, the license issued by the board shall describe the licensee as

a "registered physical therapist licensed by the Board of Medical Examiners."

Each application shall be accompanied by the application fee prescribed by Section 2462, shall be signed by the applicant, and shall contain a statement under oath of the facts entitling the applicant to receive a license without examination or to take an examination.

SEC. 8. Section 2635.1 of the Business and Professions Code is amended to read:

2635.1. (a) An applicant whose application is based on a diploma issued to him by a foreign physical therapy school recognized by a member nation of the World Confederation for Physical Therapy shall furnish documentary evidence, satisfactory to the ~~board~~ *examining committee*, that he has completed in a physical therapy school or schools a resident course of professional instruction equivalent to that required in Section 2650 for a physical therapist applicant.

(b) Applicants under this section shall satisfactorily complete a period of service not to exceed nine months under the continuous direction and immediate supervision of a registered physical therapist licensed by the Board of Medical Examiners in a physical therapy service and in an institution both of which have been approved by the committee for providing such a period of service. The committee may waive all or any portion of the required period of service. The committee ~~shall suggest and the board~~ shall adopt guidelines for granting such waiver.

(c) Before a license may be issued, the applicant must not only meet the requirements of subdivisions (a) and (b) but must pass the written examination as provided under Section 2636 prior to commencing the period of service, and may be required to pass an oral examination at the completion of the period of service if such period of service has not been completed to the satisfaction of the supervising registered physical therapist. The requirements to pass the written examination shall not apply to an applicant who at the time of his application has passed, to the satisfaction of the examining

committee, an examination for licensing or registration in another state, district or territory of the United States that is, in the opinion of the examining committee, comparable to the examination given in this state.

(d) Nothing contained in this section shall prohibit the ~~board~~ *examining committee* from disapproving any foreign physical therapy school nor from denying the applicant if, in the opinion of the ~~board~~ *examining committee*, the instruction received by the applicant or the courses were not equivalent to that required in this chapter for a physical therapist applicant.

SEC. 9. Section 2636.5 of the Business and Professions Code is amended to read:

2636.5. (a) An applicant may be issued a license without a written examination if he meets all of the following:

(1) He is at the time of his application licensed or registered as a physical therapist in a state, district, or territory of the United States having, in the opinion of the examining committee, requirements for licensing or registration equal to or higher than those in California, and he has passed, to the satisfaction of the examining committee, an examination for such licensing or registration that is, in the opinion of the examining committee, comparable to the examination used in this state.

(2) He is a graduate of a school of physical therapy approved by the ~~board~~ *examining committee*.

(3) He files an application as provided in Section 2632 and meets the requirements prescribed by Sections 2635 and 2650.

(b) An applicant for licensure under subdivision (a), whose application is based on a certificate issued by a physical therapy licensing authority of another state five or more years prior to the date of the filing of his application with the board, shall be required to pass an oral examination given by the examining committee.

SEC. 10. Section 2650 of the Business and Professions Code is amended to read:

2650. Except as otherwise provided in this chapter, all

applicants for licenses under this chapter, shall have a high school diploma or equivalent education and shall have one of the following qualifications:

(a) Graduation from a school of nursing approved by the Board of Nurse Examiners of the State of California;

(b) Graduation from a school of physical education;

(c) Two years of college training in an accredited school or accredited schools including courses in biological and physical sciences; and in addition all applicants shall have successfully completed, professional education in physical therapy consisting of courses of instruction, in schools approved by ~~the board, and conducted under the supervision of a physician and surgeon licensed under the board, or approved by the board~~ *examining committee*, equivalent to the following minimum standards:

A course of not less than 1,200 hours (reasonably distributed), in residence, providing that the minimum length of full-time training shall be 12 months, and including the following subjects taught by intructors having the following qualifications:

Subject	Qualification of instructors
(a) Applied sciences	Physician and surgeon or other instructor qualified in specialty
Anatomy	
Pathology	
Physiology	
Psychology	
Physics, correlated with other subjects	
(b) Procedures	Physical therapist
Electrotherapy	
Radiation therapy (not including X-ray or radium therapy)	
Hydrotherapy	
Massage	
Therapeutic exercise	

(c) Physical therapy as applied to Medicine, Neurology, Orthopedics, Surgery, Psychiatry	For theory, physician and surgeon or other instructor qualified in specialty. For practice, physical therapist
(d) Ethics and administration	Physical therapist
(e) Electives	Physical therapist
(f) Clinical practice	A physician and surgeon and a physical therapist

SEC. 11. Section 2651 of the Business and Professions Code is amended to read:

2651. The ~~board~~ *examining committee* shall approve each school of physical therapy located in the United States that proves to the satisfaction of the ~~board~~ *examining committee* that it complies with the essentials of an acceptable school of physical therapy promulgated by the Council on Medical Education of the American Medical Association, except that each such school in addition shall comply with all of the provisions of this chapter and the rules of the ~~board~~ *examining committee* adopted pursuant to this chapter.

SEC. 12. Section 2652 of the Business and Professions Code is amended to read:

2652. All schools whether situated in this state or not, furnishing courses of study meeting the minimum standard required by Section 2650 of the code shall be approved by the ~~board~~ *examining committee* and shall be entitled to compel such approval, if the same is denied, by action in the Superior Court of the State of California, the procedure and power of the court in which action shall be the same as provided in Section 2174 of this code.

SEC. 13. Section 2655.3 of the Business and Professions Code is amended to read:

2655.3. A person seeking approval as a physical therapist assistant shall make application to the examining committee for such approval. Every person

applying for approval as a physical therapist assistant shall have all of the following qualifications:

(a) Have graduated from a school for physical therapist assistants approved by the ~~board~~ *examining committee* or have training or experience or a combination of training and experience which in the opinion of the examining committee is equivalent to that obtained in an approved school.

(b) Successfully pass the examination given under this article.

(c) Be of good moral character, and not be addicted to the intemperate use of alcohol or any narcotic drug.

SEC. 14. Section 2655.9 of the Business and Professions Code is amended to read:

2655.9. The ~~board~~ *examining committee* shall approve each school for physical therapist assistants that proves to the satisfaction of the ~~board~~ *examining committee* that it complies with criteria for approval of schools for physical therapist assistants established by the ~~board~~ *examining committee*. These criteria may be based upon the standards and curriculum guidelines for a school for physical therapist assistants as promulgated by the American Physical Therapy Association or an essentially equivalent organization.

SEC. 15. Section 2655.10 of the Business and Professions Code is amended to read:

2655.10. The amount of the fees to be paid in connection with this article is as follows:

(a) A fee to be set by the ~~board~~ *examining committee* of not more than fifty dollars ($50) shall be charged for each application for approval as a physical therapist assistant and such approval which may be granted.

(b) A fee to be set by the ~~board~~ *examining committee* of not more than fifty dollars ($50) shall be charged for renewal of each such approval as a physical therapist assistant.

(c) A fee to be set by the ~~board~~ *examining committee* of not more than fifty dollars ($50) shall be charged for each application for approval to supervise a physical therapist assistant or physical therapist assistants and for

any such approval which may be granted.

(d) The examining committee shall renew approval to supervise a physical therapist assistant or physical therapist assistants upon application for such renewal provided the physical therapist submits evidence that his practice or the physical therapists submit evidence that their practice and the way in which the physical therapist assistant or assistants are being utilized would have led to approval as an initial application under Section 2655.1. A fee to be set by the board *examining committee* of not more than fifty dollars ($50) shall be paid for such renewal.

SEC. 16. Section 2660 of the Business and Professions Code is amended to read:

2660. The board may, after *the conduct of* appropriate proceedings *by the examining committee* under the Administrative Procedure Act, suspend for not more than 12 months or revoke any license issued under this chapter for any of the following causes:

(a) Advertising in violation of Section 17500 of the Business and Professions Code.

(b) Fraud in the procurement of any license under this chapter.

(c) Procuring or aiding or offering to procure or aid in criminal abortion.

(d) Conviction of a felony or other crime involving moral turpitude. The record of conviction or a certified copy thereof shall be conclusive evidence of such conviction.

(e) Impersonating or acting as a proxy for an applicant in any examination given under this chapter.

(f) Habitual intemperance.

(g) Addiction to the excessive use of any habit-forming drug.

(h) Gross negligence in his practice as a physical therapist.

(i) Conviction of a violation of any of the provisions of this chapter or of the State Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring

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to violate any provision or term of this chapter or of the State Medical Practice Act.

(j) Clearly excessive administering of treatment or use of treatment or use of treatment facilities to the detriment of the patient as determined by the customary practice and standards of the local community of licensees.

SEC. 17. Section 2661 of the Business and Professions Code is amended to read:

2661. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense involving moral turpitude is deemed to be a conviction within the meaning of this article. The board may, *upon the recommendation and direction of the examining committee,* order the license suspended or revoked, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 18. Section 2672 of the Business and Professions Code is amended to read:

2672. Whenever any person has engaged or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application of the board or *the examining committee* of 10 or more persons holding physical therapist licenses issued under this chapter, may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7, Part 2, Code of Civil Procedure, except that no undertaking shall be required in any action commenced by the board *or the examining committee*.

HOME KARE, INC.
San Jose, Calif., May 1, 1975.

State Senator ALFRED E. ALQUIST,
California State Senate,
State Capitol Building,
Sacramento, Calif.

SENATOR ALQUIST: We have had an opportunity to review SB 828, an act relating to physical therapy which you introduced into the Senate on April 10, 1975. We would like to make a suggestion to you for some possible amendments to that bill.

As you well know, there were at least two "classes" of physical therapists in California at one time. The State recognized Registered Physical Therapists which were covered under Section 5.6 of the Business and Professions Code. These were persons who were graduates of an accredited school of physical therapy and registered with the State of California.

Another "class' 'of physical therapists was the "Licensed Physical Therapist" who was a person qualified to practice physical therapy because of practical experience and knowledge. This person was licensed by the State of California to practice physical therapy under Section 5.7 of the Business and Professions Code.

In 1968, you sponsored legislation which, besides other things, united all "classes" of the practice of physical therapy under one licensing and registration system. The bill also required that the governor appoint to the Physical Therapy Examining Committee persons (at least the first two appointments to be made) who were registered under 5.6 of the Business and Professions Code. This was, to our knowledge, an attempt to provide equal representation on the committee for persons of both "classes" of the practice.

However, the result has been a committee which consists of nothing but representatives of the "class" of physical therapists known as 5.6's.

Your bill SB 828 extends the powers of the Physical Therapy Examining Committee. It is the concern of many persons who were formerly licensed under Section 5.7 that they will not have any representation on the committee, yet the committee will have greater powers than before.

Many of the members of the California Physical Therapy Association (which organization consists of mostly former 5.7's) have expressed the desire that you amend SB 828 to provide that the first two appointments made by the governor to the Physical Therapy Examining Committee be made from lists of persons formerly licensed under Section 5.7. This would, in our opinion, provide equal representation on a committee which will have expanded powers over both "classes" of physical therapy practitioners.

We recommend that the bill also be amended to include some public members on the committee (NOTE: Senator Moscone has introduced legislation which would provide for public members being appointed to many of these kinds of professional boards and committees).

Finally, we recommend that the bill also be amended to prohibit membership on this committee of any person belonging to a professional organization which is discriminatory relative to its membership policy. This amendment was the result of discussions with, besides others, Walter Kaitz.

We are willing to meet with you and your staff, as well as members of professional organizations affected by this bill, to resolve the problems which exist.

Sincerely,

FLORA M. SOUZA,
Executive Administrator,
FRED KEELEY,
Administrative Assistant to the President.

To: Flora M. Souza.
From: Fred Keeley.
Re Possible solution to SB 828 problem.
Date: April 29, 1975.

After speaking with Senator Alquist and members of the California Physical Therapist Association today, it became clear to me that the real problem which exists with respect to SB 828 is the CPTA fear that the members of the Physical Therapy Examining Committee (who are appointed by the governor from lists of persons who are registered as therapists under 5.6) will not be fair to the persons who were formerly certified under 5.7.

The bill which Alquist has introduced has made no provisions for representation on the Physical Therapy Examining Committee of persons formerly certified under 5.7.

The bill does, however, give new and broad powers to the Physical Therapy Examining Committee (a committee which was heretofor only advisory to the Board of Medical Examiners).

A solution to the problem would be to amend Section 2604 of the Business and Professions Code (which is the section which requires the governor to appoint members to the Physical Therapy Examining Committee from lists of 5.6 people) to allow the governor to appoint members to the committee who were either licensed under 5.7 or registered under 5.6.

This would solve the problem and gain Alquist the support of the CPTA.

To: Flora M. Souza.
From: Fred Keeley.
Re Alquist and Smith letters for Dr. Lillick.
Date: January 8, 1975.

Senator Alquists aide, Loretta Riddle, said that she would send us a copy of the Senator's letter which would support Dr. Lillick for appointment to the Department of Health.

Senator Smith's aide, Susan Jones, said that Senator Smith was reviewing the letter that she had drafted regarding the appointment of Dr. Lillick. When Senator Smith approved the letter, then she would send us a copy.

I asked both Mrs. Riddle and Ms. Jones to forward copies of their letters to Marc Poche. They agreed to do that.

ATTACHMENT 3.—AFFIDAVITS RELATING TO THE QUALITY OF CARE OFFERED BY SOUZA'S HOME KARE AND RELATED CORPORATIONS

AFFIDAVIT

I, Penelope Kavanaugh, being duly sworn, do freely and voluntarily state under oath that the following facts are true to the best of my knowledge:

1. That from August 26, 1976 to November 15, 1976, I was employed as a homehelper by Unicare, Inc., a California corporation licensed to provide home health care.

2. That as a homehelper for Unicare, Inc., I serviced three clients for a total of six hours on Mondays and Fridays and two clients for a total of four hours on Wednesdays.

3. That my only experience in the field of home services at the time of my application for employment was that I had cared for an arthritic friend of mine.

4. That when I applied for the above-mentioned position of homehelper with Unicare, Inc. in response to an add in a newspaper, I was asked no questions about my background or fitness for the job. I was hired the next day.

5. That at the time of my hiring, I was given a booklet by Unicare, Inc. which stated that I was to receive twenty (20) hours of training for my position as a homehelper.

6. That, in fact, I was given my own client load and commenced work after receiving only four (4) hours of observation in the field. I received none of the twenty hours of training promised by Unicare, Inc. in the above-mentioned booklet.

7. That I received no basic emergency training from Unicare, Inc. such as mouth-to-mouth recussitation or heart massage.

8. That I was provided with no list of my clients' doctors or relations to contact in the event of any emergency by Unicare, Inc.

9. That neither prior to nor subsequent to the commencement of my duties as a homehelper for Unicare, Inc. did anyone representing Unicare, Inc. ever inform me of the specific medical problems of the individuals for whom I provided service, nor were their needs ever communicated to me by anyone representing Unicare, Inc.

10. That my first client, a Mrs. Merkley of Apricot Way in San Jose, was a stroke victim who had been out of the hospital for approximately four months. Mrs. Merkley asked me to scramble an egg for her, informing me that no one from Unicare, Inc. had ever bothered to do so for her before myself.

11. That another of my clients was a Mrs. Evelyn Orlando, an arthritic. Mrs. Orlando told me that she had never seen a Unicare, Inc. supervisor although

they were supposed to make periodic visits. She also said that I was the first Unicare, Inc. employee who had known how to lift her properly.

12. That Mrs. Orlando was bedridden and obviously had extremely dry skin, but that no one from Unicare, Inc. had ever bothered to put any lotion on her body.

13. That Mrs. Orlando also had someone attending her from Home Kare, Inc.

14. That while I was still employed by Unicare, Inc., Mrs. Orlando was hospitalized in Los Gatos Community Hospital and Valley West General Hospital.

15. That in attempting to locate Mrs. Orlando at the Los Gatos Community Hospital, I learned that she had been hospitalized under the name of Mrs. Evelyn Ackerman.

16. That Mrs. Orlando's physician was Dr. Edward Lackner.

17. That Unicare, Inc. reimbursed my travel expenses at the rate of twelve cents ($.12) per mile for the first seventy (70) miles and at the rate of ten cents ($.10) per mile for every mile thereafter.

18. That Unicare, Inc. allowed its home helpers only fifteen (15) minutes of travel time between clients.

19. That the Unicare, Inc. employee I observed took twenty (20) minutes away from the time allotted to one of her clients because the travel time to said client was thirty-five (35) minutes, twenty (20) minutes more than what Unicare, Inc. allowed.

20. That although I commenced work for Unicare, Inc. on August 26, 1976 and was to be paid at two-week intervals, I did not receive my first paycheck from Unicare, Inc. until sometime between approximately October 4, 1976 and October 8, 1976.

21. That although I terminated my employment by Unicare, Inc. on November 15, 1976, I did not receive my last three paychecks until the period from December 10, 1976 to December 15, 1976.

22. That Unicare, Inc. did not provide me with even basic equipment for servicing the clients assigned to me, and that I had to carry my own vacuum cleaner to clean my clients' apartments.

23. That as a result of my employment by Unicare, Inc., I have grave concerns about the quality of care being provided by said corporation to its clients.

PENELOPE KAVANAUGH.

Subscribed and sworn to before me this 22 day of December 1976.

(Signed) M. BETTENCOURT,
Notary Public of California.

My commission expires December 1, 1977.

RECORD OF INTERVIEW

Present: Felix Brunner, U.S. General Accounting Office, San Francisco Region; Marianne K. Yurkonis, U.S. General Accounting Office; Joan A. Luton, Security Guard; Purolator, Division of U.S. Guards, Santa Clara; A friend of Mrs. Burnett for 7 years, Mrs. Ilma H. Burnett, 3637 Snell Avenue, Space 339, San Jose, March 3, 1977.

Received care from Unicare, I think it was October 1974 or November 1974. I quit their service the last part of Feb. 1976. The care was ordered by the doctors. The care I need is someone nearby, to supervise, particularly bathing in order to avoid the possibility of a collapse as a result of excessive steam or heat. I require oxygen. Need my diet supervised. Homemaker would prepare meals. The dinners would be left in the oven for reheating. The homemaker would do the dishes and maintain the house, rub my back. Services are authorized for every day of the week—five days—Monday through Friday. (Mrs. Burnett suffers from extreme pulmonary emphysema.)

Mrs. Burnett worked in a laundry, knowledge of bookkeeping and was a substitute teacher and has had two years of college.

Christel was the first one to come from Unicare. She was excellent. Her hours were not quite the way they should have been, but I did not say anything.

Second person would skip days and get me to sign her papers. The schedule was never the same as the office schedule. Some times only had 30 minutes of service, some times none. Because it took 20 minutes to get here and 20 minutes to get back, I generally received only 30 minutes of service while I was supposed to get two hours. The lady was, however, a very nice person.

The next person was fine. Management would call her and tell her what she was supposed to do and she said no many times while on the phone at my house. Apparently management did not understand why it took her so long and they wanted to know whether she was providing services over and above what was authorized. She never tried to get me into signing papers to the times that she was not here. She took care of me for at least five months.

Another lady came in from Unicare until they could find a permanent lady. During this period I would some times go two to three weeks without anyone coming in. As a consequence I had to rely primarily on my family and friends. In October 1975 I believe Unicare sent Esther. Esther never provided me with the time she was supposed to. Also Esther was never here on schedule and when she was here she would only stay 10 to 15 minutes. Yet, I was required to sign for her full time as if she had been here for the normal two hours that she was supposed to provide me.

I complained to the management of Unicare. Particularly I remember calling Daryl Canhan (Nursing Director of Unicare) and a Audrey, both of whom were Esther's bosses. In addition, I remember talking to a person named Pat and one named Judy. I do not know the last names. I complained to them and Unicare sent Judy to come and see me on two occasions. One of these occasions, Judy told me that "I better be thankful for the care I was given. She also said that it was her perogative to put me in a resthome. If I did not like the care I would be more satisfied there." Judy led me to believe that there was only one service which was Unicare. I got the definite feeling that it was the resthome or accepting the services from Unicare. One of the persons I talked to at Unicare told me that if the county would shut Unicare down, it would start off with another name and things would not be any different than they are now.

One day instead of Esther leaving the house she went into my master bedroom. Joan Luton was here in my own bedroom and I asked her to look to see what Esther was doing. Just as Mrs. Luton left my room she saw Esther come out of the master bedroom with an armfull of papers. The next day I found that my papers, ownership, to my house including my will and some pictures of my sister were missing. Joan's daughter was outside my house playing and also saw that Esther had some manila envelopes and other papers with her. I reported this to the San Jose police department.

The next time Esther came to see me I confronted her with the above and asked her to get my papers and pictures back to me. Esther denied being in the bedroom and said that I was dreaming. In fact Esther screamed some foul language which I don't dare repeat to anyone else. Esther further threatened me that she would have Mrs. Lutton's daughter taken care of for finking on her. I called Unicare, Audrey, and told her what had happened. She simply told me that I did not know where I was getting all of these marvelous ideas from. I told Audrey that I had a witness, and not to send Esther to my house any more. That did not do any good. Unicare did not stop my service. In fact Esther was right back in here. Some times I would get a call from Unicare, Daryl, and asked me if Esther had left. I told her she had not been here. They simply told me that I did not remember her having been here. Apparently they thought I did not comprehend Esther's schedule. Nobody can really understand the schedule under which Esther was supposed to provide me the services. In fact, I used to get one schedule in writing. Then they would give me another schedule orally. The two would never agree. I remember receiving some times four different schedules in one week.

I told Esther several times to put in her time rather than just to give me 10 or 15 minutes. Esther's reply always was that she could not be fired. I finally asked Esther to leave and told her I did not want to see her again. I also called Unicare and told them the same thing. After about the fifth time of asking the management at Unicare not to send Esther, Esther still came back. So I simply did not answer the door. I then received a call from Daryl and asked me why I did not answer the door and I told Daryl that the services be terminated unless Unicare could send someone else out. They did not send any one else.

I really can't understand why Unicare's management did not do anything about this girl Esther. Especially, after Esther totally ruined every garment that I owned. I gave Esther instructions on how my things should be washed, but she just ruined them and laughed about it. I still have a pair of slacks on which Esther had poured some sort of acid. When I showed them to Esther she thought that this was the funniest stunt of all. Another thing that really bothers me, Esther was supposed to rub my back. I have a particularly sensitive spot on my back which if someone touches it sends me into orbit. Esther would turn me

on my side and then intentionally hit the spot laughing all the while. I used to break out in tears and asked her to stop hitting me on the spot. Esther would simply say that she had instructions to rub my back. Other times Esther would move me into a position so that I could not shift then she would leave my room and I could hear her going through drawers and moving things around. One time when she did this I yelled at her "Esther what are you doing?" Esther simply fled the house. The worst thing of all was the fact that Esther would show up only two or three times. This was also true of the other Unicare employees that were supposed to take care of me, I remember one particular time when Esther came on a Monday and did not return until 9:30 PM on the following Friday, yet Esther made me sign for the full 10 hours ($5\times2=10$) I told Esther that that was not right, but Esther simply told me that she was going to get paid anyway, no matter what. When I called this to the attention of the Unicare people, they told me the same thing. I can't remember how many doctors and dentists appointments I missed because the Unicare homemakers did not show up on schedule to take me to those appointments.

"If I had been allowed to talk to the Board of Supervisors in Santa Clara County, I doubt that Unicare would still have the firm hold it now has on this County."

"If older persons more ill, more senile went through even one third what I did, may God forgive Unicare."

"It was a horrible, terrifying experience to think that this girl could do anything and get away with it."

"So far as they were concerned I was a charity case, even doctors don't treat me that way. It makes you ill at ease to be treated this way in your own home."

"There needs to be changes made in the company."

"I want to emphasize that the girls could not have treated me as they did unless management sanctioned it."

I called up Social Services and talked to a man named Jerry. He told me that a Mrs. Floritto of another agency would be coming out to see me. He guaranteed me that Mrs. Floritto will have good people working for her. I have been with that agency since March 1976. The lady I have now is Lyla, and I am very satisfied with the service; they give me my time and take good care of me.

Reviewed and concurred, March 3, 1977.

ALMA BURNETT.

RECORD OF ENTRY

Present: Felix Brunner, U.S. General Accounting Office, San Francisco Regional Office; Marianne K. Yurkonis, Secretary, U.S. General Accounting Office; Joan M. Hinckley, R.N. M.P.H., Director of Nurses/Administrator, South Bay Home Health Agency, Inc., 20823 Stevens Creek Boulevard, Cupertino, Calif.

The following information is submited voluntarily:

Joan Hinckley worked as an assistant director of nursing at Home Kare, Inc., for approximately two months. She began her duties on or about January 5, 1976, submitted her resignation on February 16, 1976, and left work on or about March 5, 1976. Her basic complaints with Souza and the latter's entities were in the areas of nursing supervision and patient care. "A lot of what I wanted to see in terms of services being delivered and agency supervision may have been in the manual, but it was not there in day-to-day practice."

Hinckley's responsibility was to review the nurses' notes, charting a patient's progress, and including the medical records and physicians' orders. She noted that at least one nurse was sent into the field with very little guidance or background provided by Home Kare, Inc. According to Hinckley, the philosophy of the organization was geared toward making upwards of eight visits per day. Efforts to provide the staff with adequate training and guidance took a low priority, and although some of the staff nurses were quite good, in Hinckley's opinion it was with no thanks to Home Kare.

Carol Snow was the director of nursing and Hinckley's immediately superior. Although Hinckley took the problem of inadequate guidance and supervision up with the management, nothing was ever done. Even among the staff nurses the attitude was one of sink or swim since they had adjusted without direction from their superiors and had "made it." They seemed reluctant to provide any assistance to a new nurse.

According to Joan Hinckley, she was not the only one to express disappointment and dismay with the program's operation. At the time of her orientation,

in January of 1976, two other nurses were also being oriented. One was a staff nurse in the Santa Cruz Office and the other nurse, Director of the Downey Office. Both of these nurses also quit their jobs and left Home Kare within a matter of a few months, as did Hinckley. In fact, since assuming her post at South Bay Home Health Agency, Mrs. Hinckley has interviewed two former Souza employees. One was Daryl Canham, the director of nurses at Unicare, who told Hinckley she left because the administrator, Mrs. Souza was too difficult to work with any longer. The other women interviewed was Mary Knutson, who had served as the supervisor for Home Health Aids at Unicare. She quit her job there after two months.

We were also told that Souza kept drivers on part-time duty to squire her around in the FMC motor home. As for employees who actually should have been working there, Hinckley reported that while Sharon Jack had a beautiful office, she was rarely seen there more than a couple of hours each day. In fact, Hinckley said she worked for Home Kare for several weeks before she learned whose office it was, meaning Sharon Jack's office.

Finally, Hinckley told us a little bit about Allied Paramedical Training Institute, Inc. This Souza entity certified home health aides. Molly Warder, the other assistant director of nursing was the instructor of this institute. When new employees were hired, Molly was responsible for assigning credit toward certification, thus reducing the amount of work that the aides had to complete in Allied's training program. Hinckley said Molly expressed concern to her about what she was actually teaching towards their certification as a certified home health aide.

Mrs. Hinckley's reasons for leaving Home Kare center mainly around the general attitude of the agency in relation to the way business was conducted. For instance:

1. The lines of authority did not correlate to the day-to-day activities of the agency's personnel.
2. The distribution of the workload was not realistically correlated to agency demands, priorities, and available personnel.
3. The failure to emphasize and respond to staff development ongoing supervision.

Mrs. Hinckley said that Flora Souza had high regard for the home health aides and staff nurses but little regard for the nursing supervisors. Mrs. Souza often said that they, the aides and staff nurses, were the breadwinners. She looked down on the nursing supervisors or directors. Mrs. Hinckley said that her responsibility while she was with Home Kare was to review the staff nurses' notes to insure Medicare coverage. She said that as a supervisor, she spent no time supervising or developing staff. While Mrs. Hinckley was with Home Kare, Inc., she gave absolutely no supervision to any nurse. She stated that the only thing she did was review paper work and take incoming patient referrals for care. There was no direct supervision of nursing personnel that she could see, none whatsoever. There was much emphasis for nurses on the number of visits a day, and some nurses did make as many as 11 visits in one day. Considering travel time to and from the various patients' residences, charting time and the number of visits per day, it appears that only a limited time could have been spent in actual patient care time. The big thing was how many visits did you make today? Quantity was stressed and not quality. Mrs. Hinckley said that there were two nurses, herself and the other ass't director, that reviewed about 80 patient records a day to insure that the proper documentation was in those records for Medicare coverage purposes. Staff nurses were often told by Carol Snow, the director of nurses at Home Kare, and also by Molly Warder, the other Ass't Director, that you have to make seven visits a day in order to even cover your own salary.

As an example of the attitude which prevailed at Home Kare is the following sample:

Ms. Virginia Melver was hired by Home Kare as a staff nurse about 2 weeks after Mrs. Hinckley had started with Home Kare. Ms. Melver was given a caseload and told to make visits with little guidance or orientation into being a field nurse. Ms. Melver later quit Home Kare about 2 weeks after Mrs. Hinckley had left.

Referring to Sharon Jack, she said I rarely saw her there at the Home Kare offices.

Reviewed and concurred, March 2, 1977.

JOAN HINCKLEY.

RECORD OF ENTRY

Present: Felix Brunner, U.S. General Accounting Office, San Francisco Region; Marianne K. Yurkonis, U.S. General Accounting Office; Dean C. Couris, Administrative Supervisor, Homehelpers Inc., 225 East Santa Clara, Suite 701, San Jose, Calif.

The following information is submitted voluntarily:

Received a phone call form one of my homemakers and she said that their was a lot of excitement among the homemakers for the Unicare Agency. The reason was that they were all going to a meeting on Friday. The phone call was on Wednesday. The people had received a letter saying there would be a meeting at the Holiday Inn in San Jose, Jan. 7, 1977. Unicare called the meeting and would be at the meeting. Thursday, the worker called again, rather I called the worker. She said that everyone was receiving follow-up phone calls from the Unicare agency reminding them of the meeting. The person who informed me gave me a phone number of a Unicare Homemaker and I called that person and asked if she could tell me about the meeting. The person said she did not know too much about the meeting. Just that they received this letter. I called up Local 19 and said can you give me some information about the meeting you are having. No information was given to me but acknowledged that there was a joint Unicare and Union meeting. Anyway, I established the fact that they were having the meeting. I checked with a homemaker who works in my agency and asked if they would be interested in going to the meeting.

In the meantime, another Union 250, representing homemakers in San Francisco had been active in attempting to organize homemakers in Home Helpers. I rather deal with the 250 than with the Bartenders Union because they are more experienced in representing homemakers and I felt there may be a sweetheart agreement between Unicare and the Bartenders. An easy way for Unicare to go to the supervisors with support from organized labor.

I wanted to find out about what happened at the meeting. I went over to the Holiday Inn that evening, walked by the room to see what was going on. I thought I could go in after the meeting and pick up some literature that may have been left. The meeting was at 7 p.m. I walked by one of the doors and saw Moralta passing out printed matter which I assumed was union literature. The meeting was over at 8:30. I went back to see if I could pick up some literature. There was nothing left. It looked like they brought in plastic garbage bags and cleaned the place out.

I called Wally Brown the next day and asked him how the meeting went and he denied any union involvement at the meeting. I saw him sitting there. Schilling may have been there. I am not sure. Moralta was there.

I know someone who will get some literature for me, hopefully today.

There is no current trend of clients calling us. We would get a few calls from clients at the beginning of the new contract in Aug., Sept. and Oct. of 1976, some we could help out.

Lyla Lusk, former client, called about a week ago. She is very difficult to work with and had been, serviced by Unicare about 7 months. She said she would like to have us come back because Unicare was bad.

The transfer was in August and Sept. of 1976, when Flora took contract over.

Henri Habennicht went to the County Clerk's Office to check the political contributions and found that a political contribution of $350 was made by Flora Souza to McCorquodale. However, other contributions are made to political candidates in lesser amounts.

Reviewed and concurred, March 3, 1977.

DEAN C. COURIS.

ATTACHMENT 4.—INFORMATION RELATING TO HOME KARE AND RELATED CORPORATIONS WHICH SOUZA PROMISED BUT DID NOT PROVIDE TO THE AUDITORS

REVIEW OF HOME KARE INC., HOUSE WAYS AND MEANS OVERSIGHT SUBCOMMITTEE; LIST OF INFORMATION REQUESTED BUT NOT PROVIDED BY FLORA SOUZA

1. Invoice in support of purchase of jewelry (set of earrings) purchased from Fox Jewelers at St. Francis Hotel.
2. Explanation of $3944 loan from Unicare Inc. to Allied Paramedical Training Institute.

3. Copy of agreement with Alexian Brothers hospital.
4. Explanation on furniture being purchased from Hong Kong—type of furniture, purchased by what corporation, need for phone call to Hong Kong and copy of purchase order.
5. Ermine Duccinis's Progress Reports in support of his billings as consultant. Allocation of billings among various companies.
6. Voucher for Flora Souza's expenditures during period June through July 1976.
7. Airline ticket to Washington, D.C. and return for Mai Alquist.
8. Expenses incurred by Mai Alquist while in Washington.
9. Copy of Flora Souza's personal check for Unicare, Inc. Valentine Party.

ATTACHMENT 5.—EXAMPLES: DOCUMENTATION OF QUESTIONABLE TRANSACTIONS

EXAMPLE 1—KITING RESTAURANT RECEIPTS

1. Home Kare charged Medicare $47.47 for dinner at the Senator Hotel (bill no. 622974) allegedly attended by Mr. Duccini, Mrs. Souza, and Mrs. Ascunsion, "to expand and revise pension plan." This amount was included in Mrs. Souza's April 1975 expense report and paid for by Home Kare check number 4169 dated 4/25/75.
2. Investigators retrieved the original bills from the Senator Hotel (no. 622974) which show the purchase was actually in the amount of $7.47 for two cheeseburgers, one hot dog, one roast beef sandwich, and three colas to go.

EXAMPLE 2.—KITING AND DOUBLE BILLING

1. On 10/25/75 Flora Souza charged $38.81 to American Express for a meal at the Carnelian Room in San Francisco as per restaurant check no. 137696.
2. This amount was included in Souza's American Express billing which was paid by Home Kare on 12/17/75.
3. In her January 1976 personal expense report, Souza used the restaurant stub for check no. 137696 which was dated 1/29/76 from the Carnelian Room to justify reimbursement to her of $121.11. The back of the stub notes the alleged dinner was attended by Mr. Stewart, Mr. Ralph Zezza, Dixie Porter, Mrs. Souza, Sharon Jack, and Mrs. Ascunsion to discuss "Insurance coverage, pension plan, and San Francisco office problems-referrals of patients have been slipping."
4. Souza was reimbursed $121.11 on 2/9/76 as per Home Kare check no. 6730.

EXAMPLE 3—KITING MEALS EXPENSES AND DOUBLE BILLING

1. On October 6, 1975 Souza incurred $43.40 in meal expenses at Sebastian's, a restaurant in Campbell, California. The restaurant check no. is 46783. This amount was charged to Souza's American Express card and paid by Home Kare as per check No. 6122 dated 12/1/75. Supposedly present were Mr. Sylva, Mr. Hellman, Mr. Zezza, Mr. Stewart, and Mrs. Souza. The reported purpose of the meal was to discuss "Home Kare repayment to Travelers."
2. Souza's November 1975 personal expense report shows Souza submitted Sebastian's restaurant check stub no. 46783 to support dinner for herself, Dr. Cahn and wife, Dr. Yoshita and wife, Dr. Randal and wife, Sharon and Bob Jack, Dr. Weeks, and Dr. Lackner. The meal supposedly took place on November 13, 1975 and cost $220.00.
3. This amount, $220.00 was paid to Flora as per Home Kare check no. 6421 dated January 5, 1976.

EXAMPLE 4—JUSTIFYING MEALS BY CLAIMING TO ENTERTAIN PEOPLE NOT IN ATTENDANCE

1. On September 13, 1975 Souza charged a meal at Sebastian's restaurant in Campbell, California to American Express. Receipts show the meal cost $112.35, which was paid by Home Kare check no. 6122 dated December 1, 1975.
2. On the back of the restaurant stub the meal was justified as a business meeting: "Discussed possibility of changing intermediaries." It is represented that Al Fox, Bureau of Health Insurance, Baltimore, Maryland, was in attendance along with Mai Alquist, Bob and Sharon Jack, as well as Mr. and Mrs. Kaitz.

3. Al Fox has provided a sworn statement that he was not present for the meal/meeting. He was not even in California on September 13, 1975.

EXAMPLE 5—PERSONAL EXPENSES DISGUISED AS BUSINESS MEALS

1. Souza charged Medicare for two meals in Sacramento in the amount of $125.08 and $10.55 as per her February 18, 1975 American Express billing. These amounts were paid by Home Kare check no. 3915 dated March 31, 1975.
2. For verification of these expenditures Souza offered American Express receipts dated February 11, 1975 to Grebitus and Son of Sacramento which showed charges of $125.08 and $10.55. The handwritten notation on the back of this AE ticket shows supposed attendance by the following people at the meal: Souza, Stewart, Carol Snow, Mary Baker, Sharon Jack, Fred Keeley, Sara Teraniski, and Molly Warder.
3. Investigation revealed that Grebitus and Son are Jewelers and Silversmiths, Sacramento, California.
4. Invoices obtained from Grebitus and Son shows purchases by Souza of a basket, wine glasses, and other glasswear on the above dates, in the above amount.

EXAMPLE 6—CLOTHING PURCHASES DISGUISED AS BUSINESS MEALS

1. Souza charged Medicare $216.00 for a meal in San Francisco as per her January 20, 1976, American Express billing to Home Kare which Home Kare paid with check No. 6908 dated February 20, 1976.
2. Supposedly in attendance at the meal at Maison-Mendessolle in San Francisco were Souza, Stewart, Keeley, Ralph Zezza, Sharon and Robert Jack, Georgia Casey, Carol Snow, and Mary Regester.
3. Investigation revealed Maison-Mendessolle is a woman's wearing apparel store located in the St. Francis Hotel in San Francisco.
4. A copy of the sales slip for this date certified by the Maison-Mendessolle Controller shows that the $216.00 was for clothing purchased by Mrs. Souza on December 29, 1975.

EXAMPLE 7—CLOTHING PURCHASES DISGUISED AS BUSINESS MEALS

1. Souza's BankAmericard statements for March 12, 1976 shows $170.20 meals entry at the Dockside Trading Company, Sacramento, for purchases on January 30, 1976.
2. A notation on this statement reads, "Dinner, Home Kare Sacramento staff to discuss patient care."
3. This amount was paid by Home Kare per check No. 7298 dated March 26, 1976, and thus charged to Medicare.
4. Investigation revealed that Dockside Trading Company is a decorating studio and art gallery. A BankAmericard charge slip obtained from Dockside indicates purchases made by Sonza on January 30, 1976 in the amount of $170.20 were for "one caftan, one shirt".

EXAMPLE 8—JEWELRY PURCHASES DISGUISED AS BUSINESS MEALS

1. Souza's BankAmericard statement for October 1975 shows a September 10, 1975 purchase of $138.45 "Fox's St. Francis" in San Francisco.
2. Home Kare's notation on the ticket claims it was a meal attended by Ralph Zezza, Dixie Porter, Sharon and Bob Jack, Jack Stewart and David Sylva to "discuss monies available for the Good Sam Project".
3. This amount was paid by Home Kare check No. 5892 dated November 5, 1975 and thus presented to Medicare.
4. Investigation revealed that Fox's St. Francis is a jewelry store in the St. Francis Hotel, San Francisco. Souza said the purchase was jade earrings when confronted by auditors.

EXAMPLE 9—OBTAINING REIMBURSEMENT FOR MEAL EXPENSES TWICE: ONCE FROM HOME KARE AND ONCE FROM PHYSICAL THERAPY, INC.

1. On December 12, 1975, Souza incurred $51.76 for meals at the Gazebo, Los Gatos, California. Supposedly present were: Vivian Ascunsion, Carol Snow, Jan Garcia and Ed Taylor for purposes of "Continued discussion of P.T. referrals for increased business".

2. This amount was submitted to Physical Therapy, Inc., as per Souza's December 1975 cost report. Physical Therapy, Inc. paid Souza as per check No. 5567 dated January 29, 1976, which was endorsed "for deposit only" and deposited in Souza's account.

3. Significantly, a Master Charge invoice in the amount of $51.76 for this same date and meal was charged to Home Kare. Home Kare paid Master Charge as per their check no. 6692, dated January 28,1976.

EXAMPLE 10—OBTAINING REIMBURSEMENT FOR MEALS TWICE: ONCE FROM HOME KARE AND ONCE FROM PHYSICAL THERAPY, INC.

1. On December 17, 1975, Souza incurred $43.29 for lunch and bakery goods at The Nut Tree Association near Sacramento. Supposedly present were Ermine Duccine and others for "Employee Birthday Party."

2. This amount was submitted to Physical Therapy, Inc. as per Souza's December 1975 expense report. Physical Therapy, Inc., paid Souza as evidenced by PTI's January 29, 1976, check No. 5567 endorsed and deposited in Souza's account.

3. A Master Charge invoice in the amount of $43.29 for December 17, 1975, at The Nut Tree Association was billed to Home Kare. Home Kare paid Master Charge as per their check No. 6692, dated January 28, 1976.

INTERVIEW WITH ROBERT L. HOWARD, PUBLIC HEALTH ADVISOR, HEW—FEBRUARY 25, 1977

Subject: Review of Home Kare, Inc.
Present: DHEW—Robert L. Howard, House Ways and Means Oversight Subcommittee; F. Brunner, and E. J. Zollner.

Mr. Howard said he came to California detailed as a Bank of America Training Officer some time in January 1975. He liked the area very much and he decided to move to San Francisco, California. Al Fox, DHEW, knew that he was looking for a job and suggested he contact Flora Souza, Home Kare Inc. who was looking for an Assistant to the President. Al Fox felt that he would be right for the job and referred him to Flora. That was some time in February 1976.

In March or April 1976 he went to see Flora Souza at Home Kare, sometime in the spring of '76, could have been May. Flora Souza paid for the mileage from his home in Orinda to San Jose and return, about $36. He bought his family who stayed at Felton. He paid for the room and meals for him and his family and took annual leave probably Thursday and Friday or Monday and Tuesday. He has checks to show that he paid for the room.

When he went for the job interview, he toured the place and talked about salary. He was offered a salary somewhere in the range of $30,000. He felt that the salary was too high for the job and he also felt that if he were to accept the position with Flora Souza he would be in the middle of a family type business and if something went wrong he would be the first to go. He was offered a job as a consultant which he did not take because he felt that Flora Souza's Home Kare was receiving government funds and he was working for DHEW. He did keep in touch with her. Later he suggested to Sydney Sholl that she should take this job which she took late in August or September of 1976, and worked for about six months. She is now in Atlanta, Georgia.

In August 1976, a Thursday or Friday he was called by Jack Stewart regarding a proposal, not Home Kare but Unicare. They needed somebody who knew about training. He went down one Sunday in August 1976 talked to them and advised them that it would be a good idea to have the training program on cassettes. They (Unicare) recorded a series of cassettes by Dr. Randolph, Unicare Medical Officer. He was paid about $60 for the cost of reproduce the cassettes and about $150 for his services as a consultant. Plus about $18 mileage.

He was contacted yesterday (Feb. 24, 1977) by Marcia Kahn, Bureau of Health Insurance. She wanted to know his relations with Flora Souza. He told her basically the same thing he has mentioned above.

The attached travel voucher is the only trip that he has been reimbursed in 1976 by DHEW. He did not submit any travel voucher for his trip to Home Kare Inc.

Concur: ROBERT L. HOWARD.
Date: February 25, 1977.

Appendix 2

TRANSMITTAL OF THE HEARING RECORD

ITEM 1. LETTER FROM SENATOR FRANK CHURCH, SENATE COMMITTEE ON AGING, CONGRESSMAN DAN ROSTENKOWSKI, SUBCOMMITTEE ON HEALTH, HOUSE WAYS AND MEANS COMMITTEE, AND CONGRESSMAN SAM GIBBONS, OVERSIGHT SUBCOMMITTEE, HOUSE WAYS AND MEANS COMMITTEE; TO HON. GRIFFIN BELL, U.S. ATTORNEY GENERAL, DATED MARCH 25, 1977, AND REPLY, DATED APRIL 26, 1977

DEAR MR. ATTORNEY GENERAL: Enclosed is a copy of the transcript and related exhibits of our March 8 hearing which explored possible fraud and abuse among home health agencies.

Our March 8 hearing centered on the operations of a California corporation, known as Home Kare, Inc., which is owned by Mrs. Flora M. Souza. Home Kare, Inc. offers in-home services to the aged and indigent, receiving funds from titles XVIII, XIX, and XX of the Social Security Act. As you will see, our hearing produced significant allegations of fraud. We ask that you review the material to assess what crimes, if any, have been committed and to take appropriate followup actions.

As you will see, most of the allegations were based upon two audits, one by Travelers Insurance Co., on behalf of the Bureau of Health Insurance, and a second by General Accounting Office auditors assigned to the House Ways and Means Committee. All of the workpapers are in the possession of the Committee on Aging. We propose to give them to you. Please have your staff arrange to pick up this material from Mr. Val J. Halamandaris, associate counsel of the Committee on Aging. He may be reached at 224–5364.

A copy of this transcript has also been sent to Mr. William E. Williams, Acting Commissioner of Internal Revenue; Mr. Thomas Morris, Inspector General of the Department of Health, Education, and Welfare; and Mr. Mario Obledo, Secretary of Health and Welfare, State of California. Since there is only one set of audit workpapers, your office will have to coordinate the access to them by other agencies. It is our hope that Federal and State personnel can work closely together on this case.

In a very short time, we will send you a second transcript relating to our March 9 hearing and our investigation of Peter Gottheiner. We hope that you will give both of these cases top priority.

With best wishes,

Sincerely,

FRANK CHURCH,
Chairman, Senate Committee on Aging.

DAN ROSTENKOWSKI,
Chairman, Subcommittee on Health,
House Ways and Means Committee.

SAM GIBBONS,
Chairman, Oversight Subcommittee,
House Ways and Means Committee.

HON. FRANK CHURCH,
Chairman, Senate Committee on Aging,
Washington, D.C.

DEAR MR. CHAIRMAN: The materials concerning Flora Souza, Home Kare, Inc., et al., that you and Chairmen Rostenkowski and Gibbons provided to the Attorney General were forwarded to the Criminal Division for analysis and review.

The materials you provided contained a number of allegations which suggested possible violations of Federal criminal statutes prohibiting fraud and false statements. After reviewing the materials, we have forwarded both the transcripts of the hearings you conducted and the workpapers provided to us by Mr. Halamandaris to the U.S. Attorney, Northern District of California, for further investigation.

Thank you very much for your assistance in this matter.
Very truly yours,

BENJAMIN R. CIVILETTI,
Assistant Attorney General,
Criminal Division,
Department of Justice.
By: JOHN C. KEENEY,
Deputy Assistant Attorney General.

ITEM 2. LETTER FROM SENATOR FRANK CHURCH, SENATE COMMITTEE ON AGING, CONGRESSMAN DAN ROSTENKOWSKI, SUBCOMMITTEE ON HEALTH, HOUSE WAYS AND MEANS COMMITTEE, AND CONGRESSMAN SAM GIBBONS, OVERSIGHT SUBCOMMITTEE, HOUSE WAYS AND MEANS COMMITTEE; TO HON. WILLIAM E. WILLIAMS, ACTING COMMISSIONER, INTERNAL REVENUE SERVICE, DATED MARCH 25, 1977

DEAR MR. WILLIAMS: The Senate Committee on Aging, together with the Health and Oversight Subcommittees of the House Ways and Means Committee, recently held hearings to examine possible fraud and abuse among home health agencies. Attention quickly focused on the activities of two providers, Flora M. Souza of Campbell, Calif., and Peter Gottheiner of San Francisco. Acting through various corporations, these individuals have received large amounts of medicare, medicaid, and title XX funds.

Our hearings produced significant allegations of fraud and abuse; consequently, we have directed that copies of our hearing transcripts be turned over to the Department of Justice. We are also sending you a copy of the same transcript, asking that you conduct a full investigation for possible violations of the Internal Revenue Code.

The transcript of our March 8 hearing focused on the activities of Flora M. Souza. At the earliest opportunity, we will send you the March 9 transcript which relates to the activities of Peter Gottheiner.

If you or your investigators have any questions, please contact Mr. Val J. Halamandaris, associate counsel, Senate Committee on Aging, who directed the investigation. He can be reached at 224–5364.

With best wishes,
Sincerely,

FRANK CHURCH,
Chairman, Senate Committee on Aging.
DAN ROSTENKOWSKI,
Chairman, Subcommittee on Health,
House Ways and Means Committee.
SAM GIBBONS,
Chairman, Oversight Subcommittee,
House Ways and Means Committee.

ITEM 3. LETTER FROM SENATOR FRANK CHURCH, SENATE COMMITTEE ON AGING, CONGRESSMAN DAN ROSTENKOWSKI, SUBCOMMITTEE ON HEALTH, HOUSE WAYS AND MEANS COMMITEE AND CONGRESSMAN SAM GIBBONS, OVERSIGHT SUBCOMMITEE, HOUSE WAYS AND MEANS COMMITTEE; TO HON. THOMAS MORRIS, INSPECTOR GENERAL, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, DATED MARCH 25, 1977, AND REPLY, DATED APRIL 12, 1977

DEAR MR. MORRIS: Enclosed is a copy of the transcript and exhibits relating to our March 8 hearing exploring possible fraud and abuse among home health agencies. As you know, this hearing related to a corporation known as Home Kare, Inc., owned by Flora M. Souza.

The transcript is fairly complete. The audit workpapers and other original documents have been turned over to Attorney General Griffin Bell.

Galleys of this hearing were printed for the purpose of making this evidence available to appropriate law enforcement agencies. The galleys contain considerable sensitive information, including names of informants and various allegations which were not totally substantiated. We hope that you will treat this matter as confidential; we believe there are areas requiring additional investigation. The question of intercompany loans, in particular, needs examining. We believe that it will also be useful to contact a fairly large number of clients to see if they received services for which medicare (or title XX) was billed.

We shall send you a copy of our March 9 transcript relating to the activities of Peter Gottheiner as soon as it is available.

With best wishes,

Sincerely,

FRANK CHURCH,
Chairman, Senate Committee on Aging.

DAN ROSTENKOWSKI,
Chairman, Subcommittee on Health,
House Ways and Means Committee.

SAM GIBBONS,
Chairman, Oversight Subcommittee,
House Ways and Means Committee.

Hon. FRANK CHURCH,
Chairman, Committee on Aging, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter, also signed by your colleagues Chairman Sam Gibbons and Chairman Dan Rostenkowski, dated March 25 forwarding a copy of the transcript and exhibits relating to Home Kare, Inc. The committee material will be very helpful in the investigation of this case.

On April 4 a meeting was held on this case between Mr. John O'Conner, assistant U.S. attorney, the FBI fraud supervisor, and the OIG investigator-in-charge, San Francisco. An agreement was reached that the FBI will have the primary investigative responsibility, with OIG, HEW assistance, cooperation, and support under the direction of the U.S. attorney's office.

I assure you that I will keep you informed regarding investigative progress on this case to ensure that the matter is receiving ongoing attention as a high priority case.

Sincerely,

THOMAS D. MORRIS,
Inspector General,
Department of Health, Education, and Welfare.

ITEM 4. LETTER FROM SENATOR FRANK CHURCH, SENATE COMMITTEE ON AGING, CONGRESSMAN DAN ROSTENKOWSKI, SUBCOMMITTEE ON HEALTH, HOUSE WAYS AND MEANS COMMITTEE, AND CONGRESSMAN SAM GIBBONS, OVERSIGHT SUBCOMMITTEE, HOUSE WAYS AND MEANS COMMITTEE; TO HON. MARIO OBLEDO, SECRETARY OF HEALTH AND WELFARE, STATE OF CALIFORNIA, DATED MARCH 25, 1977

DEAR MR. OBLEDO: Enclosed is a copy of the transcript of our March 8 hearing. As you know, numerous allegations of fraud and abuse were raised related to the operations of Flora M. Souza's corporations, including Home Kare, Inc.

This transcript and related exhibits have been made available to the Internal Revenue Service, to the HEW Inspector General, and to the Department of Justice. The audit workpaper and other original documents were given to Attorney General Griffin Bell, with instructions to share the information with the State of California and other appropriate agencies. We are hopeful that State and Federal proscutors will work together on this important matter.

We have not given a copy of this transcript to California Attorney General Evelle Younger. We assume that you would want to take this action, sending along the Unicare audit and audit workpapers as developed by your Department of Benefit Payments.

We look forward to working closely with you on this and related matters.

With best wishes,

Sincerely,

FRANK CHURCH,
Chairman, Senate Committee on Aging.

DAN ROSTENKOWSKI,
Chairman, Subcommittee on Health,
House Ways and Means Committee.

SAM GIBBONS,
Chairman, Oversight Subcommittee,
House Ways and Means Committee.

Appendix 3

EXCHANGE OF CORRESPONDENCE BETWEEN THE SENATE COMMITTEE ON AGING AND ROBERT J. GERST, ESQ., ATTORNEY FOR FLORA M. SOUZA

ITEM 1. LETTER FROM ROBERT GERST TO VAL J. HALAMANDARIS, ASSOCIATE COUNSEL, COMMITTEE ON AGING, DATED FEBRUARY 8, 1977

DEAR MR. HALAMANDARIS: This office has been retained to represent Ms. Flora Souza and the corporations identified above with respect to a hearing by the Senate Special Committee on Aging which is currently scheduled for February 16, 1977.

A subpoena has been served on my clients requiring them to permit representatives of the General Accounting Office to review extensive books and records of the various companies involved. Immediately after the subpoena was served, my clients cooperated fully with all of the requests of the auditors from the GAO. As you know, the GAO auditors moved a large trailer onto the parking lot of the home offices of Home Kare, Inc., and have had at various times four and five representatives searching, auditing, and reviewing the books and records. They have worked late at night and on Saturdays and Sundays, and have had the full assistance and cooperation of my clients at all times. Of necessity this activity has substantially disturbed the entire operations of my clients' business. There are books, records, documents, papers, invoices, and check all over the physical premises because of the extensive investigation of the GAO. This has made it extremely difficult for my clients both to conduct their business and to be of assistance to the GAO auditors.

As soon as we were engaged in the case we became aware of various charges which were being made against our clients. These included multiple allegations of a serious nature that have been made by others and which formed in part the basis for the audit by GAO. To some extent these allegations have been presented in a general form, with few detailed statements as to the specific facts, including dates and individuals involved.

There is no question that serious charges have been made against my clients, and that it is necessary to review carefully all of the books and records in order to permit an informed response on their behalf. However, because of the complexity and magnitude of the business operations conducted by the various companies, it is clear that professional assistance is required. To that end we have employed the accounting firm of Ernst & Ernst to commence immediately a review of the books and records of the various companies and individuals involved, in order to ascertain specific facts regarding the operation of the businesses and the allegations which have been made regarding the financial affairs of the companies.

We have asked Ernst & Ernst to conduct this review in order to ascertain the validity of the allegations that have been made and to permit our clients to be specifically advised as to the manner and methods by which their books were maintained and controlled.

We have been advised by Ernst & Ernst that it will take a minimum of forty-five days to audit the books and records in regard to those areas of the inquiry being conducted by GAO. In addition, our clients have advised their accountants to immediately develop appropriate accounting systems to ensure their conducting their business in accordance with the strict requirements of both the Medicare and Medicaid programs.

Ernst & Ernst has advised that if they were given a copy of the report made by the GAO auditors as a result of the audit, it would substantially shorten the length of time it would take them to conduct their independent audit. It is therefore requested that you make available to us as soon as possible a copy of that report for transmittal to Ernst & Ernst.

This matter is obviously extremely complex, involving multiple companies, books and records, millions of dollars, and thousands of exhibits extending over several years, and in order to properly present meaningful information to the Committee in connection with its hearing, it is essential that my clients have an opportunity to receive a full review and report of their financial reports.

The areas of inquiry are to a significant extent technical and detailed, involving sophisticated questions of Medicare reimbursement, allocations, and apportionments between multiple companies. In order for our clients to cooperate fully with the Committee and to provide the Committee with meaningful answers to questions which will be raised, it is necessary that they be given an adequate opportunity to investigate the facts. The failure to provide them with such an opportunity will cause the hearing to be nothing other than a one-sided statement of allegations to which no informed response may be possible.

We are sure that you and the committee are interested in holding a fair, full, and meaningful hearing. In order to permit a full review and audit by the accountants, it is hereby requested that the hearings be postponed for a maximum of sixty days and that we be provided with a copy of the report of the GAO auditors, together with access to their work papers.

It is requested that you take this matter up with both the chairman of the committee and the ranking minority member at your earliest opportunity, and advise me of their decision regarding our request.

Very truly yours,

ROBERT J. GERST.

ITEM 2. TELEGRAM FROM SENATOR FRANK CHURCH TO ROBERT GERST, DATED FEBRUARY 15, 1977

DEAR MR. GERST: This is to confirm we have agreed to your request that the hearings scheduled for February 16 and 17 in Washington, D.C. involving your client Flora M. Souza have been postponed for a period of approximately 30 days depending on scheduling contingencies. I will be in touch with you as soon as new dates have been agreed to—we expect you to produce your client in Washington that time.

Sincerely,

FRANK CHURCH, *Chairman,*
Special Committee on Aging.

ITEM 3. TELEGRAM FROM ROBERT GERST TO SENATOR FRANK CHURCH, DATED FEBRUARY 22, 1977

DEAR SENATOR CHURCH: I appreciate your telegram of February 16, 1977, confirming that the hearing had been postponed. Since that time, as you know, we have employed the accounting firm of Ernst and Ernst to review and analyze various areas of concern which have been expressed by the staff of the Special Committee on Aging and the Subcommittee on Oversight of the House Ways and Means Committee. I have been advised that it will be at least 45 days before any meaningful report can be obtained from them.

It has come to my attention that Travelers Insurance Co. did a full complete and definitive audit of the cost report for Home Kare, Inc., for the cost reporting period ending March 31, 1975, during the month of December 1976. We understand that this audit was conducted under the direction, supervision, and instruction of the Bureau of Health Insurance. Travelers reviewed in detail each every and all of the areas that have been of concern to your committee and which were reviewed and analyzed by representatives of both your committee and the Special Committee on Oversight.

Although requested by my client, Travelers has been unable to conduct a normal exit conference at the conclusion of their audit in order to review and discuss their findings.

Of particular importance to the function of your committee, however, is the fact that the cost reports which were filed by the provider have not been finalized in accordance with the regulations adopted by the Department of Health, Education, and Welfare pursuant to congressional mandate. Current medicare

law is not being followed since it is necessary for the intermediary to conduct an exit conference and propose adjustments to the cost reports following their review, it is normal and practical for this approach to be followed. In our case, hundreds of hours have been spent already by Travelers and the Bureau of Health Insurance auditing the cost reports and the books and records supporting them and it is necessary for the exit conference to take place so that this time effort and money will not be wasted.

To further the purpose behind the congressional inquiry, it seems reasonable, proper, and fair to permit the provider, the fiscal intermediary and the Bureau of Health Insurance to normally conclude their respective obligations under the current law and regulations in order to determine if they are functioning properly.

Many items in the cost reports filed by thousands of providers are normally questioned by fiscal intermediaries at the conclusion of their audits. Our office has been handling cost report disputes for almost 10 years and it is usual to find that at least 20 or 30 items are questioned by intermediaries at the conclusion of their audits.

In this case, those items are subject to review at the time of the exit conference and if appropriate, adjustments to the cost reports are to be made. My client has indicated that if there are items which were included in error, appropriate adjustments will be made to the cost report. On the other hand, if there are items of dispute as to their allowability it is their intention to appeal those adjustments in accordance with the appeal process created by Congress in 1972 and as established by HEW in the regulations that guarantee a right of appeal to providers with judicial review when there are disputes over the allowability of costs between the fiscal intermediary, the Government, and a provider.

I believe it would be an unreasonable interference with the normal cost-finding process to refuse to allow the provider and the intermediary (under the overall supervision of the Bureau of Health Insurance) to finalize the allowable cost pursuant to the methods established by Congress and the Department of HEW prior to the time of any congressional hearings.

The congressional hearings, if held prior to the exit conference, and finalization will only interfere with the normal process and will create unreasonable inferences which normally do not arise but are resolved during the settlement negotiations between the provider and intermediary. Items that are normally disputed or disagreed with have been resolved though this process in over 100,000 cases since medicare started. If these items are brought out in a hearing first, it will create a distorted suggestion of unreasonable conduct and will highlight one particular provider, thus, unfairly suggesting that this provider has done something wrong which would require congressional action although the issues involve questions that affect and involve over 10,000 providers under medicare today.

If these hearings are conducted at this time, there will be an unnecessary duplication of time and effort as well as a significant and unreasonable expenditure of funds to conduct it when it involves a subject that is already covered by existing rules, regulations, procedures, and policies under both medicare participation and reimbursement.

There is no significant evidence of any major wrongdoing which could not and would not be disclosed and resolved though the normal reimbursement practices which currently exist and which could be concluded in a few hours with the intermediary without imposing upon Congress' heavy schedule of important issues and concerns.

I urge you to permit the fiscal intermediary and BHI to finalize the cost reports in accordance with established procedures, you should permit an exit conference and a speedy resolution of any differences.

It is essential that we obtain copies of the work papers of Travelers, and of your investigators and auditors before any hearing, if one is in fact necessary. Only after the normal process has been completed, if you and the committee members feel there is a necessity, should a hearing be held. I assure you of the continued and willing co-operation of my clients and assurance of further participation with you in looking into any additional areas that review.

Please advise at your earliest opportunity.

Robert J. Gerst.

ITEM 4. LETTER FROM ROBERT GERST TO VAL J. HALAMANDARIS, DATED FEBRUARY 23, 1977

DEAR MR. HALAMANDARIS: As set forth in our letter to you of February 8, 1977, an extensive review of the books and records of our above-mentioned clients has been undertaken at the direction of various committees of Congress over the past months. We are informed by our clients that in excess of 800 manhours have been spent by GAO auditors in this review. Our clients have, in spite of the resultant significant disruption of their business during this period, attempted to cooperate completely with the auditors. Serious allegations have been made concerning our clients which, by their nature, require a detailed and technical response based largely upon the books and records themselves.

A highly disturbing incident has recently come to our attention involving the conduct of one John Markin, who we understand to be an investigator for the House Ways and Means Committee on Oversight. We are informed that Mr. Markin has on numerous occasions removed original documents belonging to our clients from their premises without the permission of or even informing our clients. We understand that even the GAO auditors were unaware of Mr. Markin's activities in this regard, and were disturbed by them. We have now been informed that Mr. Markin has gone so far as to take certain financial records of our clients with him to Washington, D.C., without informing anyone of his actions, without the knowledge or permission of this office or of our clients, without even leaving copies of the documents removed, and without following the customary procedure of signing a receipt for any items removed from the premises. The items taken by Mr. Markin to Washington included our clients' cash disbursements ledger, which is necessary for the daily operation of their business. The removal of these items has, in addition to disrupting their business, significantly impeded our clients in attempting to investigate the facts surrounding those allegations of which they have been informed.

Although we have already at this time recovered the cash disbursements ledger, we understand that Mr. Markin is still in possession of certain other items, including certain expense reimbursement statements. We hereby demand the immediate return of these items and any others which may still be in the possssion of Mr. Markin or others.

Mr. Markin's removal of these items is highly improper, a serious breach of the protocol to be expected, particularly of a congressional investigation, and we believe, illegal. Additionally, his conduct, as well as the continued failure to provide our clients with a detailed statement of the allegations against them, has contributed to our clients' fears that they will not be treated fairly.

Please make arrangements for the prompt return of these documents.

Very truly yours,

ROBERT J. GERST.

ITEM 5. LETTER FROM SENATOR FRANK CHURCH TO ROBERT GERST, DATED FEBRUARY 25, 1977

DEAR MR. GERST: This is in further response to your letter of February 8, 1977, in which you asked for a postponement of your client's appearance before the Senate Committee on Aging, originally scheduled for February 16. As you know, we concurred in that request.

The purpose of this letter is to inform you that after conferring with the House Committee, we have established March 8, 1977, as the new date for your client's appearance in Washington. The hearing on that day will be held in room 1202 of the Dirksen Senate Office Building, beginning at 10 a.m.

With respect to your second request, I must advise you that the General Accounting Office produced no formal report relating to your client's corporations. The GAO auditors who were working in your client's office were assigned to the House Ways and Means Committee. The House Committee has not produced a report and does not intend to do so.

I appreciate your efforts to have your client fully advised of any charges which may be raised at our forth-coming hearings. In terms of preparing your client, you need only refer to the December 1976 audit conducted by the Travelers Insurance Company on behalf of the Bureau of Health Insurance. The GAO auditors were under instructions to validate the Travelers audit findings. They have found most of the Travelers findings and conclusions to be accurate.

As I understand it, you have received a detailed summary of the Travelers Audit findings and your client has been given a post audit conference not by Travelers but by the Bureau of Health Insurance. I further understand that the State of California Department of Benefits Payments completed its audit of one of your clients operations and that those findings were presented to you.

Your request that your client be allowed to testify with immunity from prosecution is hereby denied. We believe that immunity is a matter for the Department of Justice and that it should only be extended to witnesses before Congressional Committees under the most unusual circumstances. Your most recent request that the hearings be postponed is also denied.

For my part, I would like to reiterate the legislative issues which we would like to reach at our forthcoming hearings:

The fiscal integrity of the Medicare program as it relates to home health care

An evaluation of the cost and services provided by for-profit home health agencies as contrasted with nonprofit agencies

The quality of services provided to beneficiaries under Title XX of the Social Security Act and the fiscal integrity of that program

Failure of home health agencies to offset certain costs with related income

The ability of Intermediary Insurance Companies to identify overpayments and cost unrelated to patient care.

I look forward to seeing you at our hearings on March 8.

With best wishes,

Sincerely,

FRANK CHURCH, *Chairman.*

ITEM 6. TELEGRAM FROM VAL J. HALAMANDARIS TO ROBERT GERST, DATED MARCH 3, 1977

DEAR BOB: This will confirm our conversation of March 1. As per the Chairman's letter sent to you via certified mail on March 1, the date for our hearings involving your client is March 8 beginning at 10 A.M. in 1202 Dirksen Senate Building. Subpoenas were issued for the following individuals: Fred Keeley, Jackie Harvey, William Kenison, Flora M. Souza and Jack C. Stewart. Other witnesses will include John Markin, officials from the Bureau of Health Insurance, the HEW audit agency and from California's department of benefits payments. Additional names may be added. Mr. Markin assures me he has photocopied and returned to you the expense statements you inquired about.

Sincerely,

VAL J. HALAMANDARIS.

ITEM 7. LETTER FROM SENATOR FRANK CHURCH TO ROBERT GERST, DATED MARCH 4, 1977

DEAR MR. GERST: At my request, Mr. Halamandaris has given me your letter of February 23.

Mr. Markin is, of course, an employee of the House Ways and Means Committee, and I trust you have communicated your views to that Committee.

I am assured that the Senate Committee on Aging has conducted itself in a scrupulously fair manner in preparation for the hearings. You can be certain that the hearings will also be conducted with every consideration to all of the parties involved.

Sincerely,

FRANK CHURCH.

ITEM 8. LETTER FROM ROBERT GERST TO SENATOR FRANK CHURCH, DATED MARCH 7, 1977

DEAR SENATOR CHURCH: I received your letter dated February 25, 1977, today and am writing to advise you that several statements in the letter regarding my clients' knowledge of specific audit findings must be clarified.

My clients have not received nor had any opportunity to review the work papers or proposed audit adjustments of Travelers Insurance Co. after their

audit of the cost reports. On several occasions in the past two weeks, meetings were scheduled for that purpose by my office however they were cancelled by Travelers or the Bureau of Health Insurance. We have been advised that staff representatives of your committee and the House Ways and Means Committee were actively involved in the decision not to permit my clients and their representatives to review the work papers. In that regard a belated "subpoena" was issued for their protection but not served. This action unreasonably prevented my clients from having an opportunity to review the specific items involved in the hearing and findings of the audit.

It was our understanding from discussions with your staff representatives we would be given an opportunity to review the results of the GAO auditors prior to the hearing. That understanding was not contingent upon the House Ways and Means Committee producing a report of the audit findings. It is most unfortunate that my clients are not being given that courtesy in view of their previous full cooperation and assistance. You will also recall that some of my clients' records were removed by the staff of the House Committee without consent, or approval of my clients and without specific identification of the exact papers, records and documents that were removed. Recently they were returned after repeated requests therefor.

My clients did not receive the State of California, Department of Benefit Payments Report until March 4, 1977. It is a 41 page detailed analysis with multiple schedules relating to a special review of Unicare, Inc. for the period from July 1, 1975 to September 30, 1976. The report summary indicates that the cost data presented by the company is reasonable, necessary and program related. Additional information on and a review of "other home office costs" is recommended. My clients have cooperated in making this information available to your staff and will do so with the Department of Benefit Payments upon their further review.

I am sorry that your committee and the House Ways and Means Committee were unable to accommodate the requests of my clients because I believe they have valuable insight, experience and information to share regarding the legislative issues which you would like to reach at the hearings. Unfortunately it is clear that the reasonable legislative purposes behind the hearings have become clouded by other factors which make that impossible under current circumstances. Perhaps they can be cleared up in the future so that my clients can actively participate in your legislative inquiry.

Sincerely yours,

ROBERT J. GERST.

Appendix 4

CORRESPONDENCE BETWEEN SENATE SPECIAL COMMITTEE ON AGING AND ROBERT H. NEUMAN, COUNSEL TO UNICARE, INC. (FLORIDA)

ITEM 1. LETTER FROM ROBERT H. NEUMAN TO SENATOR FRANK CHURCH, DATED MARCH 9, 1977

DEAR SENATOR CHURCH: During hearings on March 8 and 9, 1977, over which you presided, dealing with "Home Health Care Fraud and Abuse," the name of a California home health agency, "Unicare, Inc.," emerged frequently in the course of the proceedings. The references to this agency which I heard, some of which were apparently discussed by you in a TV program called "A.M. America," reflected unfavorably on that agency in terms of alleged irregularities relating to the agency's operation under the medicare program.

Our firm has for some time been counsel to Unicare, Inc., a *Florida* corporation operating a 100 percent medicare, nonprofit home health agency in Miami, Fla., serving Dade and Broward Counties in Florida. Neither our client, Unicare, Inc. (Florida), nor any of its principals, executives or employees have any relationship whatsoever with the "Unicare, Inc." operating in California. Unfortunately, testimony before the joint committee, as well as references made by yourself and other members of the joint committee, have given rise to unfavorable comment in Florida which has affected our client. It appears that the confusion in names has led some people to believe that the "Unicare, Inc." being referred to in these proceedings is, in fact, the Florida corporation rather than the California corporation.

We would very much appreciate your taking whatever steps you might deem appropriate in order to dispel this confusion. Our client, Unicare, Inc. (Florida), is one of the largest home health agencies in the State of Florida which has for 4 years served medicare beneficiaries exclusively. It would indeed be unfortunate if the efforts of this agency were confused with others whose reputation or business practices may be subject to question.

Thanking you for your attention, I am

Yours sincerely,

ROBERT H. NEUMAN,
Counsel to Unicare, Inc. (Florida).

ITEM 2. LETTER FROM SENATOR FRANK CHURCH TO ROBERT H. NEUMAN, DATED MARCH 22, 1977

DEAR MR. NEUMAN: Thank you for your letter telling me that you have been retained as counsel for Unicare, Inc., a home health agency in Florida. I regret the possible confusion of your client with Unicare, Inc., the California corporation owned by Flora M. Souza. In order that there will be no further misunderstanding on this matter, I will enter your letter in our soon to be printed hearing transcript.

With best wishes,

FRANK CHURCH,
Chairman, Special Committee on Aging.

Appendix 5

STATEMENT OF KAYE A. BRADLEY, CUPERTINO, CALIF.

I went to work on or about September 1974 at the Showcase as a partner with Flora Souza. No partnership agreement was ever executed, however it was generally known by Flora and her family and Jack Stewart that I was a partner with a right to share in the profits of the Showcase. At Flora's insistence I was put on the payroll of Unicare and Home Kare in addition to receiving some salary for the Showcase. Flora made it clear to me that there was nothing wrong with being on the payroll with Home Kare and Unicare because the funds paid out of these two companies in the form of salaries basically represented her own personal funds. I can vouch for a fact that I only gave one class in hairdressing to Home Health Aids. This class amounted to a two hour demonstration of hair care. Other than this one class, I never participated in the activities of Home Health Kare and Unicare and I was always under the impression that the monies received from Unicare and Home Kare were in fact Flora Souza's personal funds. Immediately after Fred Keeley left the organization, Flora Souza and someone else, I don't remember who, came to me and made me sign some papers saying that I gave more classes to Home Health Aids.

I have presently a lawsuit pending against Flora Souza on the basis that she promised me a full partnership but subsequently reneged on the arrangements. As a consequence, I left her employ at the Showcase. As agreed, I am providing Mr. Brunner voluntarily my W–2 Forms [see following pages] and the check stubs indicating the salary received from the various companies.

Reviewed and concurred.

[s] KAYE A. BRADLEY.

March 28, 1977.

UNICARE II
256 E HAMILTON AVE
CAMPBELL CALIF
94-2160795

Type or print EMPLOYER'S name, address, ZIP code and Federal identifying number

WAGE AND TAX STATEMENT 1975

Company code	File number	COPY C For employee's records
GPC	670	
Group	Sequence no.	Employer's State identifying number
Z	22	215-6491-9

Employee's social security number	1 Federal income tax withheld	2 Wages, tips & other compensation	3 FICA employee tax withheld	4 Total FICA wages
362-40-5901	1016.31	6202.32	362.92	6202.32

Type or print Employee's name, address and ZIP code

BRADLEY,KAY
3586 PAYNE AVE #9
SAN JOSE CA
95117

5 Was employee covered by qualified pension plan, etc.?	* Other compensation included in boxes 2, 9, & 12	* State Form number
NO		W-2
8 State or local tax withheld	9 State or local wages	10 State or locality
125.16	6202.32	CA.
11 State or local tax withheld	12 State or local wages	13 State or locality
	6202.32	
*Cost of group term life insurance in box #2	*Excludable sick pay included in box #2	*Health insurance payments

Form W-2 *See instructions on back of Copy C.

Approved IRS Dept. of the Treas. 30-210-9817-

This information is being furnished to the Internal Revenue Service and appropriate State officials.

HOME KARE INC
256 E HAMILTON SUITE F
CAMPBELL CALIF 95008
94-1725588

Type or print EMPLOYER'S name, address, ZIP code and Federal identifying number

WAGE AND TAX STATEMENT 1975

Company code	File number	COPY C For employee's records
ACF	2460	
Group	Sequence no.	Employer's State identifying number
A	27	2063761-7

Employee's social security number	1 Federal income tax withheld	2 Wages, tips & other compensation	3 FICA employee tax withheld	4 Total FICA wages
362-40-5901	1016.31	6202.32	354.48	6058.08

Type or print Employee's name, address and ZIP code

BRADLEY,KAYE
3586 PAYNE AVE #9
SAN JOSE CALIF
95117

5 Was employee covered by qualified pension plan, etc.?	* Other compensation included in boxes 2, 9, & 12	* State Form number
YES		W-2
8 State or local tax withheld	9 State or local wages	10 State or locality
128.14	6202.32	CA.
11 State or local tax withheld	12 State or local wages	13 State or locality
	6202.32	
*Cost of group term life insurance in box #2	*Excludable sick pay included in box #2	*Health insurance payments

Form W-2 *See instructions on back of Copy C.

Approved IRS Dept. of the Treas 30-210-9817-

This information is being furnished to the Internal Revenue Service and appropriate State officials.

Wage and Tax Statement 1975

Flora's Inc.
The Showcase of Fshn & Styling Salon
P. O. Box 6322
San Jose, California 95150 94-2258179

Type or print EMPLOYER'S name, address, ZIP code and Federal identifying number.

Copy C For employee's records

Employer's State identifying number 232-9117-2

Employee's social security number	1 Federal income tax withheld	2 Wages, tips, and other compensation	3 FICA employee tax withheld	4 Total FICA wages
362-40-5901	619.90	3950.80	216.50	3950.80

Type or print Employee's name, address, and ZIP code below.

Kaye Ann Bradley
3586 Payne Avenue #9
San Jose, California 95117

5 Was employee covered by a qualified pension plan, etc.?	6	7
NO		
8 State or local tax withheld	9 State or local wages	10 State or locality
84.80	3950.80	
11 State or local tax withheld	12 State or local wages	13 State or locality
Ø	3950.80	

Form W-2 This information is being furnished to the Internal Revenue Service.

Department of the Treasury—Internal Revenue Service
☆ GPO: 1975—0-575-022 EI-36-2441915

CMS Library
C2-07-13
7500 Security Blvd.
Baltimore, Maryland 21244

975

ACE HOME KARE INC
A
256 E HAMILTON SUITE F
CAMPBELL CALIF 95008

Wage and Tax Statement 1974

Employer's Federal identifying number: 94-1725588
Employer's State identifying number: 206376I-7

Copy C For employee's records

Type or print EMPLOYER'S Federal identifying number, name, address and ZIP code above

FEDERAL INCOME TAX INFORMATION				SOCIAL SECURITY INFORMATION				STATE OR LOCAL INCOME TAX INFORMATION					
1 Federal income tax withheld	2 Wages, tips and other compensation	3 FICA employee tax withheld	4 Total FICA wages	5 Uncollected employee FICA tax on tips	6 Tax withheld	7 Wages paid	8 State or locality	9 Tax withheld	10 Wages paid	11 State or locality
421.66	2423.24	141.79	2423.24		49.51	2423.24	CA.		2423.24	

EMPLOYEE'S S.S. number ➤ 362-40-5901

KAYE BRADLEY
~~4151 SUGUEL DR #27~~
~~SUGUEL CALIF~~
3586 PAYNE AVE
SAN JOSE CA 95117

Type or print EMPLOYEE'S name, address, and ZIP code above.

STATUS			Form No.	Was employee covered by a qualified pension plan, etc.?	Contribution to individual employee retirement account
Empl. No.	1 Single 2 Married	No. of Depend.			
2460	1		W-2	Yes ☐ No ☐	

OTHER INFORMATION				Other compensation included in box 2, 7, 10
Cost of group term life insurance included in box 2	Excludable sick pay included in box 2	Health Insurance Payments		

Form W-2 An "X" in the upper left corner indicates this is a corrected form. 38-0387840 Dept. of Treas — IRS

This information is being furnished to the Internal Revenue Service and appropriate State officials.

Wage and Tax Statement 1974

Type or print EMPLOYER'S Federal identifying number, name, address and ZIP code above.

Employer's State identifying number

Copy C For employee's records

FEDERAL INCOME TAX INFORMATION				SOCIAL SECURITY INFORMATION				STATE OR LOCAL INCOME TAX INFORMATION					
1 Federal income tax withheld	2 Wages, tips and other compensation	3 FICA employee tax withheld	4 Total FICA wages	5 Uncollected employee FICA tax on tips	6 Tax withheld	7 Wages paid	8 State or locality	9 Tax withheld	10 Wages paid	11 State or locality

Type or print EMPLOYEE'S social security no., name, and address including ZIP code below.

STATUS			Form No.		Was employee covered by a qualified pension plan etc.?
Empl. No.	1 Single 2 Married	No. of Depend.	State	CITY OR OTHER	
					Yes ☐ No ☐

OTHER INFORMATION			
Cost of group term life insurance included in box 2	Excludable sick pay included in box 2		Contribution to individual employee retirement account

Form W-2 An "X" in the upper left corner indicates this is a corrected form. APP. IRS 6/11/74 22-1766474

This information is being furnished to the Internal Revenue Service and appropriate State officials.

GPC UNICARE INC
Z
256 E HAMILTON AVE
CAMPBELL CALIF

Wage and Tax Statement 1974

Employer's Federal identifying number: 94-2160795
Employer's State identifying number: 94-2160795

Copy C For employee's records

Type or print EMPLOYER'S Federal identifying number, name, address and ZIP code above

FEDERAL INCOME TAX INFORMATION				SOCIAL SECURITY INFORMATION				STATE OR LOCAL INCOME TAX INFORMATION					
1 Federal income tax withheld	2 Wages, tips and other compensation	3 FICA employee tax withheld	4 Total FICA wages	5 Uncollected employee FICA tax on tips	6 Tax withheld	7 Wages paid	8 State or locality	9 Tax withheld	10 Wages paid	11 State or locality
421.90	2423.24	141.79	2423.24		49.50	2423.24	CA.		2423.24	

EMPLOYEE'S S.S. number ➤ 362-40-5901

BRADLEY KAY
3586 PAYNE AVE #9
SAN JOSE CA 95117

Type or print EMPLOYEE'S name, address, and ZIP code above.

STATUS			Form No.	Was employee covered by a qualified pension plan, etc.?	Contribution to individual employee retirement account
Empl. No.	1 Single 2 Married	No. of Depend.			
070	1		W-2	Yes ☐ No ☐	

OTHER INFORMATION			Other compensation included in box 2, 7, 10
Cost of group term life insurance included in box 2	Excludable sick pay included in box 2	Health Insurance Payments	

Form W-2 An "X" in the upper left corner indicates this is a corrected form. 38-0387840 Dept. of Treas — IRS

This information is being furnished to the Internal Revenue Service and appropriate State officials.

FLORA'S INC.
Showcase of Fashion & Styling Salon
1198 Meridian Avenue - PO Box 5354
San Jose, California

Fed. ID # 94-2258179
State ID #232-9117-2

Wage and Tax Statement 1974

← Type or print EMPLOYER'S identification number, name, and address

Copy C For employee's records

FEDERAL INCOME TAX INFORMATION				SOCIAL SECURITY INFORMATION				STATE OR LOCAL INCOME TAX INFORMATION					
1 Federal income tax withheld	2 Wages, tips and other compensation	3 FICA empl. tax withheld	4 Total FICA wages	5 Uncollected empl. FICA tax on tips	6 Tax withheld	7 Wages paid	8 State or locality	9 Tax withheld	10 Wages paid	11 State or locality
85.20	500.00	29.29	500.00		5.20	500.00	CA.		500.00	

EMPLOYEE'S social security number ➤ 362-40-5901

KAY BRADLEY
3586 Payne Avenue #9

OTHER INFORMATION (See back of Copy C) | STATUS

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